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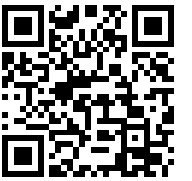

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Parliamentary History.

VOL. XXVII.

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THE

Parliamentary History

OF

ENGLAND,

FROM

THE EARLIEST PERIOD

TO

THE YEAR

1803.

FROM WHICH LAST-MENTIONED EPOCH IT IS CONTINUED DOWNWARDS IN THE WORK ENTITLED,

"THE PARLIAMENTARY DEBATES."

VOL. XXVII.

COMPRISING THE PERIOD

FROM THE FOURTEENTH OF FEBRUARY

1788,

TO THE FOURTH OF MAY

1789.

LONDON:

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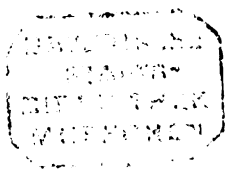

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1757.	- - - - - Chichester	Sir William Ashburnham, bart.
1781.	- - - - - Coventry and Litchfield	Hon. James Cornwallis.
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1787	- - - - - Durham	Thomas Thurlow.

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1783.	Edward, Lord Thurlow.

Lord President of the Council.

1784.	Charles, Lord Camden.

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1783.	Dec. 23.	Thomas, Lord Sydney. Francis, Marquis of Carmarthen.

Speaker of the House of Commons.

1780.	Oct. 31.	Charles Wolfran Cornwall, esq.
1789.	Jan. 5.	William Wyndham Grenville, esq.

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1786. Sept. 16. Right Hon. William Pitt; and Chancellor of the Exchequer.
James, Marquis of Graham.
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MASTERS OF THE ROLLS.

1784. Mar. 27. Sir Lloyd Kenyon, afterwards Lord Kenyon.
1788. June 7. Richard Pepper Arden, esq.

ATTORNEYS GENERAL.

1784. Mar. 30. Richard Pepper Arden, esq. afterwards Lord Alvanley.
1788. June 28. Sir Archibald Macdonald, knt.

SOLICITORS GENERAL.

1784. April 7. Archibald Macdonald, esq.
1788. June 28. Sir John Scott, afterwards Lord Eldon.

LORD ADVOCATE OF SCOTLAND.

1784. Ilay Campbell, esq.

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Parliamentary History.

28 GEORGE THE THIRD, A. D. 1788.

FIFTH SESSION
OF THE
SIXTEENTH PARLIAMENT
OF
GREAT BRITAIN

[*Continued from Vol. XXVI.*]

DEBATE on Mr. Fox's Complaint of a Pamphlet respecting the Impeachment of Mr. Hastings.] Feb. 14, 1788. Mr. *Fox* rose, and begged leave to remind the House that its attention had been very lately called to a complaint against a libel, and that, on that occasion, the right hon. gentleman who had stood forward to desire them to punish a breach of their privileges had, in the course of his speech, observed, that it had been generally thought, that when a libel on individuals was issued and published, it was most wise to pass it over without notice, unless the case were of a very flagrant nature indeed; but the right hon. gentleman had expressed great doubt whether a similar line of conduct was proper to be pursued when a libel was published against the House of Commons collectively, and against their honour and dignity as a branch of the legislature. To these opinions, Mr. Fox said, no man could more fully subscribe than himself; but there was a possibility for a case to arise, equally, if not more strong, than that of the third case stated by the right hon. gentleman; namely that of sir Elijah Impey, a man answering at their bar to accusations, and claiming the protection of the House. To that claim the House undoubtedly did right to pay attention, because to have denied it, would have been to all appearance a refusal of justice, where justice was indispensably due. The still stronger case, to which he alluded, had not been stated by the right hon. gentleman on Friday last, and indeed it was not possible for it to have offered itself as any part of the right hon. gentleman's argument. It was that of a libel on a committee appointed by the House to conduct a prosecution by impeachment, and consequently a prosecution of the most grave and solemn nature, because it put the person accused upon his trial before the supreme and most august tribunal recognized by the constitution, namely, the high court of parliament.—The minds of gentlemen having been so lately roused to an attention to libels, it was reasonable to suppose that they had considered the subject much more fully than, for a long time past, they had accustomed themselves to do. He trusted, therefore, that the complaint he had to state would not be deemed trivial in its nature; and as the House could never wish it to be understood that they were eager to punish libellers of one party, but unwilling to punish libellers of another, and as he was sure the House felt no such sentiment or desire, he was persuaded the House coincided in opinion with him, that it was incumbent on them to teach the libellers of their proceedings in a matter of the most serious and important nature, that when a complaint was made of their publication, and that publication was found to deserve punishment, they would not suffer it to escape.

Mr. Fox now observed, that a pamphlet had been put into his hands, which, although it had escaped his notice, he understood had been published nearly a fortnight. It contained a gross and scandalous libel on the Committee appointed by that House to manage the prosecution of

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Mr. Hastings, as well as a libel upon the House itself, upon his Majesty, and upon the whole legislature. With regard to the reflections on himself, personally, and on his friends, who were members of the Committee, he certainly did not, on that account, stand forward to complain of the pamphlet. It likewise, in terms of great licentiousness, made free with the right hon. gentleman opposite him, but the right hon. gentleman, he was persuaded, would not expect it from him, that he should state that it was on that account that he complained of it to the House; undoubtedly it was not. The true cause of his urging a complaint against the pamphlet was, that it tended to degrade that House, his Majesty, and the House of Lords, in the eyes of the public, and to hold forth the whole legislature as acting upon base and improper motives on a subject, in which, of all others, it behoved them to act on the purest principles, and with the strictest regard to impartial justice. That the House of Commons had done so was well known, and that the other branches of the legislature would govern themselves by the same purity of motive, there could not exist a doubt in any man's mind. The House ought not, therefore, to suffer it to be insinuated from the press, pending the proceeding, that the contrary was either likely or probable.

Having thus generally stated the ground of his complaint, Mr. Fox observed, that he held the pamphlet of which he complained in his hand, and although he would not aim at entertaining the House with reading such parts of the publication as were more remarkable for their absurdity of argument than for their libellous tendency, he would just read those passages that contained libellous reflections, of the nature he had already stated. He now read the following passage: "Such an exertion of public virtue (the impeachment of Mr. Hastings) if to public virtue it shall be referred, is indeed 'above all Greek, above all Roman fame,' and will furnish a memorable example to future times, that no station, however exalted; no abilities, however splendid; no services, however beneficial or meritorious; that not even the smile of the Sovereign, nor the voice of the people, can protect a British subject from impeachment, and a public delinquent from punishment, if found guilty." Mr. Fox commented on this extract, and said, it was beyond all doubt highly indecent to impute it to that House to have been governed in their impeachment of Mr. Hastings by so improper a motive, as a design to thwart the wishes of the Sovereign. The House had not entertained any such design, nor was it known, in modern history at least, that the House had ever acted on so unbecoming a principle.

Mr. Fox next called the attention of the House to the following quotation: "Will accusations built on such a baseless fabric, prepossess the public in favour of the impeachment? What credit can we give to multiplied and accumulated charges, when we find that they originate from misrepresentation and falsehood? The decision of the House of Commons on the Benares charge against Mr. Hastings is one of the most singular to be met with in the annals of parliament. The minister, who was followed by the majority vindicated him in every thing he had done, and found him blameable only for what he intended to do; justified every step of his conduct, and criminated his proposed intention of converting the crimes of the zemindar to the benefit of the state, by a fine of fifty lacks of rupees. An impeachment of error in judgment with regard to the quantum of a fine, and for an intention that never was executed, or ever known to the offending party, characterizes a tribunal inquisition rather than a court of parliament. The other charges are so insignificant in themselves, or founded on such gross misrepresentation, that they would not affect an obscure individual, much less a public character. They are merely added to swell the catalogue of accusations, as if the boldness of calamity could ensure its success, and a multiplicity of charges an accumulation of crimes. Thirteen of them passed the House of Commons not only without investigation, but without being read; and the votes were given without inquiry, argument, or conviction. A majority had determined to impeach; opposite parties met each other, and jostled in the dark, to perplex the political drama, and bring the hero to a tragic catastrophe. If to all the metaphysical misdemeanors which have been imputed to Mr. Hastings, he had added one real crime; had he thrown his weight into the scale of opposition, and violated the principles of duty and allegiance which he has ever maintained to his Sovereign, the same broad shield of patriotism which protected American delinquents, would have covered the go-

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vernor of India from every hostile attack. Has attachment to principle, has loyalty to the sovereign, become such a crime as to cancel the merit, and obliterate the service of thirty years?" On this occasion Mr. Fox remarked, that Mr. Hastings was represented as being prosecuted on account of his loyalty to his Sovereign; but in what did that loyalty consist? Could the man who had abused his authority, and disobeyed the orders of those under whom he acted, be said to be loyal? He would just read one more passage, which showed, that the author was not only an advocate of Mr. Hastings, but of tyranny in general: "It is on this principle that the royal family of Stuart have been fully vindicated by the retrospect of history, and justified to the conscience of mankind." Mr. Fox added, that he was far from meaning to say, that the pamphlet-writer's account of the right hon. the Chancellor of the Exchequer's speech was at all correct. He read the passage merely to show the sort of construction that the author had thought proper to put upon the proceedings of that House. Mr. Fox contended, that the libeller, in this pamphlet, not only imputed to a particular party a degree of power and influence over that House, which the event of almost every day's proceedings sufficiently manifested that they did not possess, but held it out to the world, that loyalty to the sovereign was a leading cause for that House to proceed to impeachment. The imputation in the latter point was not only false, as an imputation, but false in every other respect, because, if a man sent out to India, clothed with authority, and extraordinary powers, chose to debase that authority, to misdirect those powers, and by his conduct to sully the character and degrade the dignity of the British nation, he not only could not be said to have acted with loyalty to his sovereign; but was in fact the most disloyal subject that could possibly be described.

Mr. Fox said, he was rather at a loss what motion to make, as to the mode most proper for the House to adopt for the punishment of the libeller. His doubts remained in full force with respect to the mode chosen by the House for the punishment of the libellers complained of on the preceding Friday. He thought then, as he had on that day declared it to be his opinion, that the way proposed by the right hon. gentleman who had made the motion, to prosecute by the Attorney-general, was an improper way of proceeding; it might not be so improper in the case of the complaint he had stated. The former libel was of a peculiar kind. Excepting its being an improper interference with the proceedings of that House, and therefore a breach of privilege, it contained scarcely any thing at all libellous. In regard to the pamphlet from which he had read extracts, it was of the most pernicious tendency, being a gross attack on that House, on the House of Lords, on his Majesty, and consequently on the whole legislature. It was, therefore, in the truest sense of the words, a public libel, and for that reason a prosecution by the Attorney-general might be the most proper mode of proceeding to punish; but, entertaining still the opinion that he did of the mode adopted by the House last Friday, and which, in point of fact, he was warranted to consider as the mode most approved of by the House, he would leave it to those who were likely to be in possession of the opinion of the House, as to the mode of punishment most proper to be pursued, and would content himself with moving, "That the said pamphlet contains passages highly disrespectful to his Majesty and to this House, and indecent observations reflecting upon the motives which induced this House to prefer the impeachment against Warren Hastings, esq., late Governor-general of Bengal." Mr. Fox then delivered in the pamphlet to the Clerk at the table, who read its title as follows: "A Review of the Principal Charges against Warren Hastings, esq. &c. printed for John Stockdale, Piccadilly."

Mr. *Pitt* said, that though it appeared that he was personally interested in the pamphlet complained of, it really had not been noticed by him till the moment that the right hon. gentleman had stated its contents to the House. From what the right hon. gentleman had read of the pamphlet, it seemed to him to be not only a libel, but a libel of a very heinous, though he should imagine not of a very dangerous nature. From the little he had heard, he had no doubt that the passages extracted by the right hon. gentleman were so libellous that no context could rescue them from coming within that description, but as it would not be right for the House upon so slight a suggestion as a member reading extracts, to ground a motion, however otherwise proper, he wished the right

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hon. gentleman would suffer the pamphlet to remain on the table for a day, in order that gentlemen who might be desirous to know the contents before they voted, might read it, and forbear to make any other motion than—That the pamphlet complained of be taken into consideration on some future day. With regard to the mode of prosecution, undoubtedly a prosecution by the Attorney General would, in the present instance, be the proper mode to be adopted, though he should on that and every other occasion contend, that the House had it in its power, at all times to punish the breach of their privileges by means of their own authority and jurisdiction.

Mr. *Fox* acceded to the propriety of suffering the pamphlet to remain on the table for the perusal of the House before any motion was made respecting it, other than "that the said complaint be taken into consideration to-morrow;" which he moved accordingly, and which was agreed to.

Feb. 15. The order of the day being read,

Mr. *Fox* rose to call the attention of the House to the pamphlet which had yesterday been the subject of their conversation. So much of it had then been mentioned, that he would not now trouble them with a repetition of the exceptionable paragraphs. With respect to the mode of prosecution, though he had on a recent occasion dissented from the majority, yet in the present instance the offence was of such a nature, that he should not oppose their adopting a similar motion to that moved by a right hon. gentleman against the printers of the morning papers. He then moved, "That the said pamphlet contains passages highly disrespectful to his Majesty and to this House, and indecent observations reflecting upon the motives which induced this House to prefer the Impeachment against Warren Hastings, esq."

Mr. *Pitt* said, that from the cursory view he had taken of the pamphlet, he had no doubt of its containing matter sufficiently libellous to warrant the interference of the House; yet he saw nothing so peculiarly heinous, as to warrant the singling out the publication in question from the general mass: but, nevertheless, he was very glad to find the motion brought forward, and with the authority and weight of abilities that supported it. There was, however, one part of the motion, in which he did not yet perceive reasons that could induce him to coincide. The pamphlet was said to contain reflections on the King. The passage from which this charge was deduced, was, if he understood rightly, in the fifth page. It ran thus: "Such an exertion of public virtue" (the impeachment of Mr. Hastings) "if to public virtue it shall be referred, is indeed 'above all Greek, above all Roman fame,' and will furnish a memorable example to future times, that no station, however elevated; no abilities, however splendid; no services, however beneficial or meritorious; that not even the smile of the sovereign, nor the voice of the people, can protect a British subject from impeachment, and a public delinquent from punishment, if found guilty." This did not strike him as conveying any imputation against the King. The passage supposed, that the King might have formerly shown some mark of condescension or favour to Mr. Hastings; but it did not appear to him, that it stated any such to be shown by his Majesty now. He was happy to observe the mode in which the right hon. gentleman meant to prosecute this business; not by exerting the powers of the House, but by directing a proceeding before regular and known tribunals, for a crime known and defined by the common law; and he felt pleasure in thinking, that objections, which had been made a few days ago to this mode, as degrading to the dignity, and absolutely surrendering up the privileges of the House, were only temporary effusions from the impression of the moment, and had given place to more just sentiments on the subject.

Mr. *Fox* declared, that his opinion was unaltered. He still thought, that where they were the only party concerned, they ought not to trust their honour out of their own hands; but in this case, the presiding power of the Crown, the judicial authority of the Lords, as well as their own most important functions, were held out to public contempt; for he must still maintain that the King was reflected on. The passage quoted was, undoubtedly, that on which he founded this opinion, and if ever there was an inuendo to be clearly made out, that in question certainly was one. But there was another passage which must prove incontrovertibly the intention. Its purport was, that, "For the future, when any officer should return home from a situation of responsibility,

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his only hope must be in joining a powerful faction; for his services, let them be ever so high, or his loyalty, ever so exemplary, would be insufficient for his security." This must put the meaning of the first passage out of doubt. The right hon. gentleman had supposed, that the time past was alluded to, when the word 'smile' was used. He, for his part, conceived, that when any one was spoken of as possessing his Majesty's favour, his present favour was meant, not his past. He himself had once, for a little while, the honour to possess some part of his Majesty's favour; a noble friend of his, the noble lord in the blue ribband, whose absence he believed, every one regretted, had possessed a much larger share, and for a much longer time; yet he believed no person would talk of the King's favour protecting them now. He conceived, therefore, the sentence to mean, an undue interference of the King for the preventing of justice; though couched in the form of a panegyric on the House as if designed to convey directly the contrary.

Mr. *Pitt* said, that could he be convinced of the passages fairly carrying such a construction, he would readily join in voting the resolution; but neither did the passage itself, nor the other which was brought into comparison with it, support, in his opinion, the inference attempted to be drawn. In proportion as that inuendo, if supported, would aggravate the charge, so, if not supported, would it tend to weaken it. He therefore moved as an amendment, That the words 'to his Majesty, and' be left out.

Mr. *Adam* apprehended the question to be, whether the inuendo, as stated in the motion, could be well laid in an indictment. He was of opinion it could. He then argued to this effect, that from the time at which the pamphlet was published, pending the trial of Mr. Hastings, it could have no reference back to the time of his arrival, when no prosecution being commenced, the supposition of the royal favour, as manifested at that time, must be totally inconsequential and futile. Then, admitting for argument's sake, the words to be equivocal, he reasoned from the purview of the pamphlet, that its design was to asperse, with a view of serving Mr. Hastings, the prosecution of the House of Commons, and weaken the hands of justice.

Mr. *Dundas* observed, that it was a sufficient reason to relinquish this part of the charge, that there was a difference of opinion concerning it in the House; for no jury would fix guilt upon doubtful words when the prisoner told them, that his accusers themselves were not satisfied of the criminality of his meaning.

Mr. *Pitt* insisted, from the grammatical structure of the sentence, that it carried no reflection on the King. Many of the nominative cases, or sentences, which stood for such, to the verb, would admit of only a past construction. For instance —"his elevated situation," as there was nothing elevated in his situation now:— "his abilities,"—"the voice of the people," meaning the reputation he was said to have possessed in India. So that if the "smile of the Sovereign," receive a present construction, it must differ, in reference of time, from the preceding nominative case; and it was easy to prove, that "cannot" referred to all the preceding members of the sentence. Therefore, if one of the nominative cases differed in sense from the others, it introduced a grammatical confusion, with which there was no occasion to charge the author. Though it was not every libel that was grammar, yet it was very hard to make a man write bad grammar, in order to prove his book a libel.

Mr. *Fox* answered, that, in like manner, it was not every libel that was sense; and though he would not maintain, that the present was so, yet the sentence certainly appeared sense, till the right hon. gentleman had made nonsense of it. True, Mr. Hastings had been in a high situation; he had shown abilities; he had been in possession of popular applause, of royal smiles. But did the writer of this libel mean to argue entirely from claims which were past? Did he mean to say that Mr. Hastings no longer possessed the favour of the people, that their voice was silent, or that his popularity no longer existed? No! it was plain, on the contrary, that it was meant to confine the popularity and the royal favour to the present moment, and only to lament that they had not their effect in exempting Mr. Hastings from punishment.

Mr. *Sheridan* argued also, that the allusion was obviously directed to the present situation of Mr. Hastings, as the complaint was, that the proceedings had been conducted in a mode which precluded the royal interference, and as the writer supposed, prevented any such interposition in favour of the delinquent.

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The *Solicitor General* thought it necessary to say, that he should give no opinion on this occasion, as, from his official situation, he might be the instrument of the House in the future prosecution.

The question being put, that the words proposed to be left out stand part of the question, the House divided.

Tellers.

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So it passed in the negative. The amended question was then put, and agreed to.

Mr. *Fox* declared, that he still entertained the opinion, that unless in cases of public libel, or of a libel on the Government at large, or legislature collectively, he did not think it becoming in that House to resort to the crown lawyers, as the instruments of prosecuting libels affecting themselves, interfering with their proceedings, or implicating a breach of their privileges. He then moved, "that an humble Address be presented to his Majesty, humbly desiring his Majesty, That he will be graciously pleased to give directions to his Attorney-general to prosecute the author or authors, the printer or printers, and the publisher or publishers, of the said pamphlet, in order that they may be brought to condign punishment for the same."

The motion was agreed to *nem. con.**

Debate in the Lords on the late Promotion of Flag Officers.]† Feb. 20. The order of the day being read,

Lord *Rawdon* introduced his motion with some prefatory observations on the late promotion of captains to flags, by which several whom he described as officers of indisputable merit had been passed by. This neglect, he contended, was contrary to the established practice of the service, and was without a precedent. He said, it was not his intention to impute improper motives to any one. He had therefore framed his motion so, that he hoped it would be found perfectly inoffensive and unobjectionable. The subject of it was, beyond a doubt, of the utmost importance to the naval service of this country; and when he examined the list, and saw how many brave and deserving officers had been overlooked in that promotion, he felt himself called upon to stand forward as their advocate, and he trusted that their lordships would give their support to the motion which he should have the honour to propose, particularly as it did not point at any particular mode of redress, but left it totally to the wisdom of his Majesty to grant such relief as the exigency of the case might appear to him to demand. Notwithstanding that he lamented the situation of those officers,

* On the 9th of December 1789, the trial of Mr. Stockdale for the said libel came on in the Court of King's-bench, before lord Kenyon. After a trial of three hours, the jury withdrew for about two hours, when they returned into court with a verdict, finding the defendant not guilty. Mr. Stockdale's defence was entrusted to Mr. Erskine, who upon this occasion is acknowledged to have delivered one of the most able and eloquent speeches that was ever heard in a court of justice. See the speeches of the hon. Thomas Erskine (now lord Erskine) when at the bar, on subjects connected with the liberty of the press, and against constructive treason, Vol. 2, p. 205.

† By an order of council, dated in the year 1718, and addressed to the Lords Commissioners of the Board of Admiralty, they are directed to proceed, in the promotion of officers to the rank of admirals in the navy, according to the seniority of such officers upon the list of captains, regard only had to their being duly qualified for the rank to which they should be promoted. By a subsequent order of 1747, the Lords of the Admiralty are authorized to superannuate such captains of long and meritorious service as shall be disabled from serving as admirals, by age or infirmity, under the title of Admirals upon the Superannuated List, or, as it is commonly called, the List of Yellow Admirals. In the promotion made by the Board of Admiralty on the 15th of September 1787, in which 16 captains were promoted to the flag, upwards of 40 captains had been passed over, the greatest part of whom had the offer made them of being put upon the superannuated list; but, conceiving themselves entitled, from their past, and their capacity for future service, to the rank of acting Admirals, they refused the retreat that was offered them, and had endeavoured, but without success, to obtain their re-establishment from the Board of Admiralty. This partial promotion had occasioned a great and general disgust, and especially amongst the officers of the navy, who were alarmed to find that the expectations of reward for the longest and most meritorious service were to be dependent upon the caprice of the First Lord of the Admiralty; and it was therefore thought a proper subject for parliamentary animadversion.

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yet he confessed that he was too much alarmed at the danger of the precedent to suffer it to pass without animadversion; for did it not put the patronage of the whole navy into the hands of a minister? a patronage which a bad minister might convert to the purposes of parliamentary corruption and the most undue influence. He did not doubt but that the officers who had the good fortune, on a late occasion, to become the objects of favour, were amply deserving of their honours; but they were not more so than those who had been superseded. Were such the rewards which this nation set forth to the veterans who had bled in its defence, and by whose exertions every noble peer slept secure in his possessions? Under such circumstances, their country had no claim to their future services; for, what had they to expect? Perhaps to have a boy, who had never seen a shot fired, put over their heads, as the caprice of a minister might dictate. But, the Board of Admiralty seemed to be conscious that they had done an injury to those men who had been superseded, and, as some compensation, had offered every one of them the half-pay of a rear admiral. It could not therefore be on the score of economy that they had been overlooked. The noble lord moved, "That, an humble Address be presented to his Majesty, praying that he would be graciously pleased to take into his royal consideration the services of such captains of his Majesty's navy, as were passed over in the last promotion of admirals."

Viscount *Howe* entered into a statement of the different rules of proceeding which had governed the Board of Admiralty in promotions to the flag, for many years past, marking the periods when any new rule obtained, and producing the orders of council and various documents of authority, by which each particular alteration had been warranted. He contended that the first lord of the Admiralty was responsible for the good conduct and well-being of the service; and with the responsibility he must necessarily be entitled to exercise his own discretion in every branch of the executive duty of the Admiralty Board; and, therefore it was incumbent on every man standing in a situation similar to his own, to be careful in the promotion of officers, and more especially in the promotion of captains to flags. He was bound to consult the good of the service only, and to ask his judgment which was the most proper and best qualified officer to command a fleet. It was painful for him, undoubtedly, in the exercise of his discretion, to set officers aside; nor could he in a public assembly state the particular reasons which operated on his judgment in the late promotion of captains to the rank of admirals. It would be invidious in him to explain them, as it would be cruel in the House to desire him to make such an explanation. He had acted to the best of his judgment, and with the strictest impartiality. With regard to the reasons which might direct the judgment of a first lord of the Admiralty to pass over any number of captains in a promotion to flags, the House would recollect that there might be several. Those who were likely to be entrusted with the care of our fleets, ought to be men not only of firm minds, but possessed of bodily strength, to enable them to endure the fatigues of the hard service they might have to sustain. Officers who had served ably and meritoriously all their lives might not appear to the judgment of a first lord of the Admiralty to be fit to be entrusted with the care of a fleet, when the period of promotion to flags arrived. Their bodily strength might not be equal to the necessary severity of duty. That officer who had displayed great bravery in the command of a ship, might not be qualified to command a fleet. The noble lord knew that in the army the same observation applied. A serjeant of grenadiers, though an able and excellent soldier, might not be qualified to command a body of troops on a forlorn hope. These and other considerations, had necessarily operated on his judgment in the late promotion. If the House thought proper to take upon themselves the promotion of military officers, he should feel himself eased of the greatest anxiety in his situation, and of course escape from the painful responsibility of office. But he could not so far forget his duty to his country, as to desire their lordships to ease him of a responsibility, which could not, by any means, so well rest as where it did. He assured their lordships, that patronage was not so desirable as it might be imagined. Whenever a vacancy in the appointments in his nomination happened, there were always twenty candidates for it, at the least. He was sure therefore to disappoint nineteen, and was not always certain of pleasing the twentieth.—Had the officers who were passed over enjoyed their rank, and not

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been called into service, they must have gone through the superior degrees of promotion, that of vice admiral and of admiral, before the officers from whose service the country were to derive advantage; and thus the officers who did not serve, would have stood in the way of those who did serve. Would such a circumstance have been fair or warrantable? He stated to the House the existence of an establishment planned by a wise Board of Admiralty in 1747, for the maintenance and support of such officers as were passed by in a promotion of captains to flags, and, this was the first (as it was commonly called) of Yellow admirals. In order to make a suitable provision for captains not promoted to flags, and to enable them to spend the latter years of their existence in ease and retirement, that list was established, and all upon it received 300*l.* a year. If the superannuation pay appeared too small, let it be increased. That House would then consider, that the patronage of the first lord of the Admiralty would be increased in the same proportion, and he had more to give away than he could well dispose of already. If in the late promotion of captains to flags, he had been guilty of error, let the error be shown, and he should not feel ashamed to acknowledge it. That the half-pay of a rear-admiral had been offered to those officers who were superseded, was certainly true; but it was upon no other ground than as a compensation for past services; nor did such a measure need the countenance of a precedent. One, indeed, of this nature took place when a late gallant lord (Hawke) sat at the head of the Admiralty department.

Lord *Hawke* rose to vindicate the conduct of his father, and denied that it was a precedent in point, because that promotion had taken place with the approbation of parliament. He reprobated that system of naval distinction which overlooked the veteran officers, in order to get at the man who had the chance of being the longest liver. It was a system which every man who had at heart the honour of the service, must view with indignation. He would therefore, give the motion his cordial support.

The Earl of *Sandwich* thought it extremely improper for that House to interfere with the executive government. They had much better leave it to itself, and those noble lords who would advise the House to accede to the present proposition, he was persuaded were not aware of the infinite mischiefs which might ensue. The parliament of Great Britain stood high in the opinion of all Europe; it had acquired abundant credit from the propriety of its proceedings, from confining itself to its proper province, and from not assuming offices and functions which did not belong to it, but leaving them where the constitution had wisely placed them, in the hands of the several departments of the executive government. Let their lordships for a moment consider the embarrassments which must be felt, if promotions of admirals were to be made by the House of Lords. The idea was revolting and monstrous in the extreme. A want of knowledge of the qualifications of the different candidates, would present itself in the first instance, and ultimately lead to the destruction of the service. The influence used to obtain promotion would be at once most absurd and ridiculous. If the House of Lords took upon themselves a promotion of admirals, one lord would rise in this place and say, "Pray don't pass over my brother, make him an admiral!" another would start up in that place and intercede for his relation. Nor would applications be confined within those walls; each noble lord would be pestered at home to intercede for different captains; nay, even the ladies—and the House well knew the irresistible fascination of female influence would catch hold of a peer's hand, clasp it with ardour, and say, "My dear lord, pray get my son made an admiral!" If parliament must go out of its way, and take military promotion into their hands, he really thought it would be better for the House of Commons to have the promotion of admirals in their hands, than the House of Lords. The Commons would, no doubt, receive numberless petitions from the different boroughs represented, and their constituents would send them up instructions who was fit to be voted for. But, ridicule apart, he felt it his duty to conjure the House to let military promotions remain, where only they could rest with propriety, in the hands of the executive government. Let parliament place a due confidence in the first lord of the admiralty, and suffer him to exercise the discretion that belonged to his situation, unmolested by their interference. The responsibility lay with that officer and the board; and there the discretion ought to rest likewise. Whenever a complaint was formally made of breach

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of trust, or improper conduct in any responsible member of administration, the House had a right to institute an inquiry, and upon sufficient proof of the facts alleged, to address his Majesty to remove the minister so misconducting himself. That was the constitutional power of parliament, and one of its most important and salutary privileges; but it was widely distinct from that or the other House taking upon themselves to exercise the functions of the executive government. For his own part, he would not enter into any discussion of the late promotion of captains to flags, because he did not think that House the proper place for such a discussion; but, having himself had a share in forming the establishment which, in vulgar words, was termed the list of Yellow Admirals, but the true name of which was the Superannuated List, he would state to the House the origin of the establishment. It had been found at different periods, extremely inconvenient and detrimental to the service that promotions to flags should be governed by seniority. In 1747, a promotion to flags was necessary, and those then at the Board well knew that there were on the list of captains several officers in a superior degree qualified to command fleets: but the difficulty was how to come at them, without loading the public with an intolerable expense. In concert, therefore, with two noble lords, for whose memory the country ought to entertain the most grateful respect, the Superannuated List had been formed. The noble persons to whom he alluded, were, the one a land, the other a naval character, both men of acknowledged judgment, ability, and zeal for their country. He meant the late duke of Bedford, and the late lord Anson. With them he had taken his share in planning the Superannuated List, and he had been the person in whose hands it had principally been brought to bear. The object of it was, to provide an income for such captains, as, in a promotion to flags, the Board of Admiralty did not appoint admirals, not meaning to call them out into farther service. At the time of instituting the establishment, the object was to make eight admirals only, and in order to that, nineteen captains were passed over; and yet, there was no complaint then, no motion before that House to address his Majesty on the subject, nor any idea of injustice or partiality entertained. The establishment of the Superannuated List had been originally received with universal applause, and generally considered as a humane and benevolent institution. Those captains who were put upon it were not stigmatized, as the noble mover had contended, nor in any degree disgraced; but it was an honourable retreat from service.—The noble lord had also stated, that the late promotion had been altogether without a precedent. No such thing. There were a great number of precedents for it. In short, there was scarcely a precedent to the contrary.—Besides, what did the present motion mean? It desired his Majesty to take the case of the officers in whose behalf the motion was made, into his consideration. That had been done already, since, he had no doubt, the noble viscount at the head of the Admiralty knew his duty too well, not to have consulted his Majesty, and stated his reasons before the promotions were decided. Was it his Majesty's better consideration of the case of the officers that was desired by the motion? If so let their lordships consider, for a moment, the gross impropriety of their interfering with the prerogative in a case of that nature. If they did it in one instance, they would be called on to do it in another and what infinitely mischievous consequences might not such an unwise confusion of the distinct functions of the distinct branches of the legislature lead to! With regard to the noble viscount's reasons for having passed over some captains, undoubtedly it must have been painful for him, as a professional man, to have considered it his duty so to regulate the promotion. No first lord of the Admiralty, who had any feeling, had made a select promotion of officers to flags, without being impressed with sensations extremely painful; but, whatever had been the reasons by which either the noble viscount, or any former lord of the Admiralty had been governed, it would prove in the highest degree improper publicly to state them. It was not in human nature for any man to think himself insufficient: and, undoubtedly, one officer believed himself to be as fit for an admiral as another. Would it, therefore, be humane, or even justifiable, for a first lord of the Admiralty to single out and characterize what he held to be such disqualifications as rendered it incompatible with the good of the service for such and such captains to be promoted to flags? He was aware that it might be deemed improper in him

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to have taken any part in the debate: but when he considered the respectable quarter from which the motion came, and found that the noble lord had not examined it with his usual powers of investigation, he could not help troubling the House with the reasons which would impel him to give the motion his decided negative.

Lord *Rawdon* lamented that by some singular fatality the noble earl had totally mistaken him throughout his speech, since most of the sentiments expressed by the noble earl were such as he was so far from objecting to, that he most fully concurred in them. The noble earl and he differed in one little particular; and this was, the application of the motion, which, he must contend, was not, in any degree, that which the noble earl had argued it to be. The motion did not desire the House to interfere with the prerogative, and assume and exercise the function of military promotion. Had it been of that tendency, it would have proved, he was ready to admit, highly indecent and improper. It only desired his Majesty to take the case of several meritorious and able officers into his royal consideration, upon the presumption, that, in the late promotion to flags, their merits had been overlooked. To have rested it on any other ground would, in his opinion, have been disrespectful to the Sovereign, and have carried with it an imputation of partiality in the noble viscount, which he was very far from thinking that he deserved. He then stated a case of promotion to flags in the reign of queen Anne, when the captain of admiral sir George Rooke's ship, who was then at Portsmouth, just preparing to sail on an important expedition, was passed by; sir George Rooke, thereupon, wrote to Prince George of Denmark, remonstrating, against so gross an act of injustice to his captain, and declared that he considered it as a personal affront to himself. Lord Rawdon produced one of sir George's letters to the prince, and read a passage from it. Sir George wrote many more letters to the prince on the occasion; nor would he sail before justice was done to his captain, and he was restored to his rank. With regard to the nineteen captains that the noble earl had said were superannuated, to make eight admirals, the noble earl had not stated, whether they had withdrawn themselves from the service or not. He had, therefore, a right to conclude that they did withdraw, and it was on all hands admitted, that such officers as had withdrawn themselves from the service, had no claim to farther promotion. But, was that the case with the officers in whose behalf he had made the motion then upon the table? Directly the reverse. They were all officers lately in service, and ready and willing to be employed again. They were not men liable to be set aside upon so harsh an imputation as incapacity. The noble viscount had asked if a serjeant of grenadiers, though a brave soldier was fit to command on a dangerous enterprise? Were the cases in the smallest degree analogous? Surely not. The officers for whom he then contended had actually been in command often. They were looked up to by their whole profession as officers of the first ability, and as fit for command as any naval characters whatsoever. In the higher ranks of the army, officers always rose by seniority, colonels became generals, and so on; and, unless there was some stain in an officer's character, which rendered him unworthy of promotion and unfit for rank, he saw not the inconvenience that could arise from the same practice obtaining in the Navy. Certain he was, that the establishing a precedent of a garbled list of promotion to flags, let it happen when it might, ought to be considered as a most mischievous precedent. It was rank, and not emolument, for which officers of true military feeling were anxious. To know that their country admitted that they deserved to be thought well of, was their ambition; and the noble viscount as well as he, had witnessed the advantages of encouraging that glorious emulation in both services during the late war in America. The noble earl's argument went so far as to shut the door completely against inquiries into the conduct of a first lord of the Admiralty, on any occasion; a principle which he hoped he should never see the House adopt, since it was possible for a marine minister to act as detrimentally against the interest of his country, by abusing his authority, and pursuing improper measures, as the minister of any other department in the state.

The motion was negatived without a division.

Debate in the Commons on the Omission of Captains Balfour and Thompson in the late Promotion of Flag-Officers.] Feb. 21. Mr. *Bastard* began by remarking, that he felt differently respecting the motion he

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was about to make, than he should have done, had he been able to have brought it forward on a preceding day. He had often observed, he said, that the success of any proposition made in that House, was a good deal governed by the supposed interest the mover had in it, or the connexion in which he was believed to stand with those most immediately concerned. He thought it right, therefore, to declare, that he had no other interest in the question which he should have the honour to offer, than every gentleman present must have in the quiet, happiness, and well-being of that service, which the House had ever regarded with partiality, and which he should consider as pre-eminently entitled to his estimation. It was to the navy of England that the country was to look up for its protection. Neither had he any connexion with the officers prior to the late promotion to the flag, nor other knowledge of them, than as men whose reputation stood high in their profession, as men the companions of victory, the actors in those scenes which had reflected honour and glory on the British name and character. That the House of Commons was in a peculiar degree to be considered as the guardians of the interest and honour of naval officers, was an opinion generally entertained by professional men, and, he believed, he could produce an authority in support of that assertion, which even the Admiralty-board itself would admit to be unquestionable—he meant the authority of lord Howe. Mr. Bastard here read an extract from a speech made by lord Howe in the House of Commons, when the thanks of the House were voted to lord Rodney and the other officers, concerned in obtaining the victory on the 12th of April 1782, in which his lordship stated, that the protection of that House was what officers looked up to, and what contributed essentially to keep emulation alive. Mr. Bastard pursuing this subject, remarked, that the public opinion was the principal aim and object of every officer; and when that was lost, the ardour of the service sunk, the spirits of those employed became dejected, and disgrace to the country followed. This had been the case in the state of Rome. While the people took an interest in the character and welfare of their officers, their arms were victorious in all quarters of the globe, and the Roman name was heard every where with reverence; but when dissipation had distanced virtue, and the Senate became negligent of the honour of their officers, the Roman arms were no longer successful, and those who bore them, were reduced to the necessity of begging in the streets, like Belisarius. Having thus generally endeavoured to impress the House with a sense of their situation, as guardians and protectors of the honour of British officers, he came immediately to the point, and censured the late promotion to the flag, as a promotion founded in inequality, and disregardful of distinguished desert. Among other officers of undoubted merit, captains Balfour, Thompson, Laforey and sir Digby Dent, had been passed by totally unnoticed. He reasoned upon the evil consequence of such neglect, and called upon the House to correct it, by an address to his Majesty. So far from its being true, that the House by acceding to such a proposition would be chargeable with an improper interference with the prerogative, he contended, that the House would do its duty in an eminent degree, and render essential service to the country, by showing that it was ready to stand forward the advocate of neglected merit. He produced the order of council of 1747, establishing the list of Yellow Admirals, and maintained, that it was an institution provided only for such officers as were unfit to serve either from want of capacity or from infirmity. He declared, that neither the one nor the other of these was the case with the officers for whom he was contending. He particularly urged the claims of captains Balfour and Thompson to the interference of that House, as they both stood in a predicament peculiar and distinct from the other officers, who had been passed by in the late promotion to flags, having received the thanks of the House for their conduct on the 12th of April, 1782. He should, therefore, make them the subjects of a distinct motion, and if the House thought proper to agree to that, he meant to bring forward the other officers, who had been passed by, in a subsequent motion. He argued against the impolicy of suffering naval promotions to depend merely on the caprice of a first lord of the Admiralty, and put it to the House to consider the probable consequence of their refusing to do captains Balfour and Thompson the justice that was their due. What a lesson would it hold out to the service, and what would gentlemen whose sons were hereafter to enter into the naval profession,

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think it necessary to say to them for the purpose of instructing them how to obtain a flag? Instead of advising them to do their utmost to sink, burn, and destroy the enemy's ships, instead of telling them that victory was the road to rank, and that the higher they carried the British name, the more near they themselves approached to the acquisition of honour and reward; and instead of seeking to capture the enemy's ships of war, their counsel would be to look after merchantmen, to seize upon private property, to increase their fortunes rather than their fame, and by that means to obtain parliamentary influence; in short, to regard nothing but servility and meanness, to manifest a studious attention to the caprice of a first lord of the Admiralty, to show a readiness to run on his errands, to be his flatterer, his follower, and perhaps his pimp. Mr. Bastard affirmed, that officers who had, during a long life of hard service, behaved well, and who came not within the order of council, and were as able and as willing to enter upon actual service as ever, considering being put upon the superannuated list the same as being rejected, degraded, and stigmatized. He now moved, "That an humble address be presented to his Majesty, that he would be graciously pleased to confer some marks of his royal favour on captain Balfour and captain Thompson, who received the thanks of this House for their behaviour on the 12th of April, 1782."

Mr. *Gerard Noel Edwards* seconded the motion, and took notice of what had been stated in the newspapers, as having fallen from the first lord of the Admiralty during the debate of the preceding day, in the House of Peers, when he compared a post-captain to a serjeant of grenadiers. [The Speaker said, the hon. member must not allude in that House to any thing stated in a newspaper.] Mr. Edwards reasoned upon his reference, and declared, that he considered it as a most unfair comparison, in the highest degree degrading to gentlemen of the nautical profession, who had by their merit attained the rank of post-captains.

Mr. *Beaufoy* rose and said: The hon. gentleman who made this motion, has introduced it by a narrative of circumstances which are naturally calculated to engage attention, and secure a favourable hearing. That officers of distinguished merit should be denied the just rewards of their service; that men who have hazarded their lives in the cause of their country should, by the caprice and injustice of the naval minister, be rejected, stigmatized, and disgraced, are complaints that forcibly address themselves to the humane and benevolent feelings of the House. On the other hand, we find a difficulty in believing, that a nobleman of acknowledged humanity and unquestionable honour, whose whole life, almost from his childhood, is a proof that the naval service of his country is the strongest passion of his heart, should have been guilty of wanton oppression, of premeditated injustice, and of a deliberate attempt to ruin the naval interests of the kingdom. But while we listen with that candid attention that is due to the complaints of those who have borne arms in the service of the state, and at the same time are anxious to know if so unlikely a circumstance can possibly be true, as that the naval minister, on this occasion, has contradicted the uniform tenour of his life, we find our inquiries suddenly arrested by a preliminary question, a question which the House, I am persuaded, will agree with me in thinking must be decided before we can possibly proceed. The question is, will not the motion before us prove ruinous in the event, to the very service which it purports to promote; and will it not also prove dangerous in the extreme to the constitution, of which we are appointed the guardians and trustees? If, upon inquiry, such shall appear to be the real tendency of the motion, the complainants themselves, from all I have ever heard of their characters, will be the first to request that it may not receive the countenance and sanction of the House. —The nature of the question appears exceedingly obvious from the grounds on which the proposer has expressly declared, that he has brought it forward for consideration; for he tells us, that it arises from the unjust and unwarrantable selection which his Majesty, by the advice of his naval minister, has made in the late promotion of captains to the rank of admirals. He describes that selection as founded on caprice, injurious to men of distinguished merit, and every way destructive to the naval service of Britain. On this occasion, therefore, two questions naturally arise: first, ought the power of selection to exist at all? secondly, if it must exist, in whom ought it to be vested? The hon. gentleman, from the tenour of his argument, seems desirous of contend-

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ing that no right of judgment, that no power of selection, that no means of choice should, upon such occasions, exist in any department of the state: he endeavours to show, that the weakness of age, that the debility of sickness, that mental incapacity, and that professional demerit (which, however far from existing on the present occasion, must sometimes exist; and when it does exist, will neither be readily acknowledged, nor be capable perhaps of public satisfactory proof) should intrude on the service of the state at a time when all that is valuable to the kingdom, to its honour, its existence, may depend on the utmost vigour of exertion, the highest mental capacity, and the greatest professional knowledge. He means to contend, that no distinction should be made between the infirm and the vigorous, between the capable and the ignorant, between (I will not say the coward and the brave, for that is a distinction unknown to the naval officers of Britain, but between) the indolent and the active. If seniority of service had been, as the hon. gentleman contends, it ever ought to be, the rule and standard of promotion, the line and measure of advancement in the navy, many of the most brilliant victories which this kingdom has known, never could have been obtained. Had it been so in the army, even Wolfe himself, a name that impresses every mind with veneration, even he (from a disease which, though it did not disturb the vigour of his mind, nor prevent his discharging the active duties of a soldier in the field, hung, however, on his life, and was dragging him to an early grave) could not have lived to have attained the rank of a general officer; and that glory which shone with so intense a light, irradiating the whole empire with its beams, never could have risen to the view. But as nothing which merits the name of argument has been urged on this part of the subject, I think it unnecessary to trouble the House with any farther remarks on the first of the two questions which I stated.—The second question is, admitting that the power of selection in all promotions to the rank of admiral must somewhere exist, in whom ought it to reside? The constitution answers, unquestionably in the executive magistrate; but the object of the present motion is to show, that not in the Sovereign, as to every real purpose, as to every substantial effect, but in the representatives of the people, ought this power to be vested. In them, and not in his Majesty, if this motion should be carried, will the patronage of the navy in all future times be found. For what is the language in which, if this motion should pass, the House will be understood to address the Sovereign. "Those whom your Majesty, for purposes which you deem perfectly sufficient, has thought proper to pass by without particular distinction, we, the Commons of Great Britain, for reasons that we deem still more sufficient, desire that your Majesty will specifically distinguish: those whom your Majesty thought it was not for the interest of your service eminently to reward, we, being much more competent judges of that service, request may be honoured with such rewards as your Majesty, on better consideration, may think proper to bestow." The hon. gentleman has told us in what terms, if this motion does not pass, the House of Commons will be considered as addressing the officers of the navy; permit me to tell you in what manner, if this motion does pass, the House will be understood to accost them. "Are you desirous of advancement in the service? do you wish for the emoluments and honours of your profession? address yourselves to the members of the House of Commons; endeavour to cultivate an interest with them; attach yourselves to those who, if your deserts shall not have been such as to recommend you to the notice of your Sovereign, will move for an application to the Crown in your behalf, will vouch for your characters, and urge the House to demand from the Sovereign an equivalent for that promotion which he has thought proper to refuse. In this manner your wishes can never be frustrated, your ambition never be disappointed; for the Sovereign must either consent, (be your professional demerits what they may) to give you the distinction to which you aspire, or a recompense of equal value if this distinction should be withheld." Who does not perceive the consequences that must result from so pernicious an innovation? who is not convinced that from the hour that such a precedent is established, the navy of Great Britain, that navy which is justly esteemed the bulwark and chief dependence of the state; that navy which has enabled us to assume the foremost rank among the nations of the world; that navy which at this hour is raised so high in the general estimation of the public, that it would be difficult to find any term of praise, any

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species of panegyric that is not already worn, that is not become common and familiar to every ear, will be utterly destroyed. The hon. gentleman has mentioned the character and conquests of Hawke; let him recollect that that character was established and those conquests obtained under that very rule of promotion, that order of service which he is so anxious to overthrow. If, then, we value the experience of the past, or look forward with expectation of glory to the future, let us be cautious of departing from a rule that has hitherto maintained us in honour; let us be cautious of novel experiments on the great essential, not of the well being alone, but of the very being of the state. Above all, let it be remembered, that if the patronage of the navy be transferred from the executive magistrate to the Commons of Great Britain, that principle of responsibility, which is the surest guard and most substantial protection from the abuse of power, will cease to exist. At present, ignorance in the selection, or corruption in the choice of the officers on whom preferment is bestowed, brings with it, especially if the welfare of the state should be endangered, a parliamentary interference for the removal or the impeachment of the minister; but if this power be transferred to the Commons of Great Britain, it will be exerted without restraint or the shadow of control; for who shall call to an account the representatives of the people?—But it is not on the naval service alone that this pernicious innovation will be found to operate; we shall soon hear of similar complaints in every other department of the state; we shall soon be told that officers of ancient standing, of acknowledged fidelity, of the highest worth in the civil line are causelessly passed by, to the injury of their fortunes, the degradation of their characters and the prejudice of the kingdom: a recompence for injustice so severe will invariably be asked; not a promotion will take place in the Customs, not a single remove in the Excise, but complaints will be made that honest integrity is insulted by capricious selection, and that an equivalent for injury sustained is most justly due. The interference of the House will be anxiously solicited to save from destruction the basis of our security and our honour, the revenue of the kingdom, without which no armament could be equipped, no troops could be paid. The judges too, we shall be told, are no longer selected for their virtue or their learning, their wisdom or their experience; but ignorance and folly, it will be said (for such reports are not the less likely to be advanced from their being altogether untrue) are placed upon the judgment seat. In this manner all the active powers, all the real energy of the executive magistrate, will be transferred to the representatives of the people: the ancient barriers of the constitution, those distinctions of authority which our ancestors have established, those separations of power which they deemed essential to the very existence of freedom, will be utterly destroyed. For my own part, reasoning as a man whose first object on all occasions is the liberty of the people, there is nothing I so much dread, as that mode either of opposing or assisting the executive magistrate, which consists in the usurpation of his rights: nor is this an apprehension which belongs only to myself; for who does not recollect the extreme dismay which impressed the general mind, when a proposition was brought forward by a right hon. gentleman, (the real greatness of whose character, could any thing have recommended it, must have made it acceptable to the kingdom) for assigning the executive authority of a large proportion of his Majesty's empire to persons originally named by the representatives of the people? The nation was perfectly aware, that grievances the most alarming at that time existed in India; it was perfectly aware, that measures the most vigorous, were absolutely requisite for their removal; but the people trembled when they heard that the redress was to be obtained by an executive power in those whom they had appointed to legislative authority alone: they perfectly understood, that if the same persons who exclusively possess the right of granting supplies for the service of the state, and who also constitute a third part of the legislature, should assume the additional power of executive government, nothing could possibly prevent their becoming completely despotic. That the apprehensions of the kingdom had their foundation in truth, no arguments are necessary to prove; for no axiom is more obvious, than the maxim that this constitution is dissolved from the instant that executive authority is assumed by the representatives of the people. What form of government may succeed, I never shall think worth an inquiry: for the happiness of those who would be willing to survive

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such a ruin never can deserve consideration; but whatever system of polity may hereafter be established, certain it is, that the constitution, which has excited the wonder and fixed the admiration of the world; that constitution, which has given us conquest and splendour abroad, and such continued happiness at home, as seems to contradict the common opinion of the mutability of human affairs, and the precariousness of political freedom; that constitution which our ancestors died to establish, and which in us it would be sacrilege to surrender, must, whenever the precedent to which this motion tends shall be established, be utterly dissolved. I mean not to say, that the fatal consequences of such a precedent would be immediate, but I contend that they would be inevitable. Still less do I mean to assert, that these consequences are within the scope of the hon. gentleman's design. His motive, I am persuaded, is that of an active benevolence, desirous of doing justice to persons whom he conceives to have been deeply injured: but the House will recollect, that on motives the most benevolent, and for purposes which, if abstractedly considered, might justly be accounted wise, the worst precedents have often been introduced. It was on some ground of seeming good, of admitted or plausible advantage, of substantial justice, or more expeditious humanity, that those ruinous innovations were introduced that have destroyed the wisest sytems of polity, and overthrown the best governed and best regulated states. On the present occasion, therefore, the House will undoubtedly examine the distant effect of the measure proposed, as well as its immediate operation: they will consider, not the colour of the act alone, but the complexion of the rule which it tends to establish; and if they should find that the principle on which it proceeds, would be ruinous to the naval service, which it professes to promote, and that it strikes at the very root of the constitution, they will naturally refuse it their countenance and suppport; they will consider that a wound to the constitution is not the less dangerous for its being inflicted by themselves; and they will undoubtedly be aware (for this lesson we have learnt from experience), that from the general weakness which such a wound would produce, no permanent acquisition of strength can possibly arise to them; they will therefore conclude, that to preserve the ancient inherent constitutional privileges of the Crown is to provide for the security of their own privileges and the preservation of their own rights. But if, after all, the hon. mover sincerely believes that the noble lord who presides at the Admiralty has forgotten, in his declining age, those lessons of honour, which heretofore he invariably practised; if he really thinks that a man on whose character till now the language of complaint has never fixed a stain, is suddenly and against the ordinary rules and general course of human proceedings, become profligate and corrupt; or if he imagines that an officer, on whom, in the day of difficulty and distress, his country relied, as on her surest dependence and her firmest hope, now that the danger is past, no longer deserves her regard, let him stand forward, and propose his impeachment. Such a proposal will at least be consonant to the forms of our established government, and if guilt should be proved, let justice take its course: but let not the House sacrifice to any personal considerations, however strong, or to any personal complaints, however respectable, that constitution, which it is our greatest happiness to inherit, and which, therefore, it should be our first ambition to preserve.

Sir *James Johnstone* said, that probably he might he considered as rather partial to captains Balfour and Thompson, because they were both his countrymen; but it was their merits and their high character which made him desirous that they should receive some mark of his Majesty's favour. Gentlemen talked of the first lord of the Admiralty as if he was the first man in his profession, and as if it was impossible for him to commit an error; but he had often heard his brother declare, that he was a mere driveller, and he had great confidence in his brother's opinion of professional men.

Sir *George Collier* said, that the question was not merely whether a few meritorious officers ought to be passed by in a promotion to the flag, but whether the service of the navy should or should not be ruined. Nothing short of ruin must follow, if such a system of promotion as the last was to continue. If by such an unworthy slight, it was intended, for the sake of economy, to break the hearts of men, who after thirty or forty years hard service, were to be degraded and stigmatized, by being put upon the superannuated list, the end would be effectually

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answered. There was one officer, to his knowledge, whose feelings were so deeply wounded in consequence of not having been put upon the list of flags, that he verily believed he would die of a broken heart. As to the order of council in 1747, it carried with it the appearance of a degrading stigma upon the well-deserving officers of the navy.

Lord *Apsley* expressed his doubts whether, from the hon. baronet's mode of reasoning upon the order of council, he had either read or understood it. So far from a degradation, it was expressly stated to be an honourable provision for meritorious officers, and as a reward for past services. As to the last promotion, it had been consistent with the uniform practice since 1747.

Captain *Macbride* observed, there were certain circumstances which rendered the late promotion most extraordinary. Among other particulars, captain Laforey had been set aside because he was a commissioner, and yet the comptroller of the navy had been appointed to a flag. He spoke of captain Laforey as one of the ablest and most deserving officers in the navy. He adverted, also, in terms of great encomium to captain Thompson, and called upon lord Hood to declare whether captain Thompson had not as gallantly performed his duty on the 12th of April, 1782, as any officer in that action. He reminded the House, that the order of council of 1747, stated the Superannuated List to be an establishment for those deserving officers, who, from age or infirmity, were incapable of serving. Captain Thompson, he said, was in as sound health, and as capable of service as ever; and at the same time, one of the officers included in the late promotion, was at that hour, incapable of putting his foot to the ground, and perhaps would never be able to go aboard again. If the whole list were to go to sea, captain Thompson, he could answer for it, would send nine-tenths of them to the hospital. Captain Macbride contended against the selection of a promotion to the flag being left to the discretion of a first lord of the Admiralty, who might put his finger upon one man, and say he was too fat, and object to another as too lean, and out of caprice or prejudice, refuse any deserving officer his well-earned rank.

Mr. *Pitt* opposed the motion, on the ground of its being a motion calling upon that House to interfere with the prerogative of the Crown, and that in a manner equally unnecessary and unprecedented. It was, he said, on all hands admitted, that a selection was necessary on every promotion to the flag; and it had been the constant practice of the first lord of the Admiralty to make a selection. The very motion itself disclaimed the doctrine of promotion upon the single claim of seniority, by selecting two out of the seven captains who had been passed by in the last promotion. It being then admitted, that a selection was proper, and, indeed, indispensably necessary, the single question was, in whose hands ought the right of selection to rest—in the executive department, or in that House? He contended, that the House was incompetent to make the selection, even if it were warranted in assuming the power of making it. The governing rule in forming the selection should be a thorough knowledge of the qualifications of an officer, so as to be able to judge who was fit for the station of an admiral and who had a capacity to command. Was that House in possession of such knowledge? Undoubtedly it was not. The right of selection, had, therefore, most wisely been placed in the hands of the first lord of the Admiralty, who possessed the necessary knowledge to enable him to judge what officers had a capacity to command, and who was responsible to his country, if he entrusted the fleets of Great Britain to the command of incompetent officers. Why was that House to go out of its way and interfere with the executive department so as to brand the first lord of the Admiralty's character, and fix a censure upon his conduct in the last promotion to the flag? Was it because an hon. gentleman, the representative of a maritime county, had desired them to do it, or because the two professional gentlemen behind that hon. gentleman, thought proper to deliver their encomiums on the captains whose names were not in the list of promotions? The hon. mover was pleased to remark that the House had thanked captains Balfour and Thompson, and therefore they ought to interfere. Was that a ground for the House to go upon? Let them consider for a moment to what it would lead. In the joyful hour of the arrival of the news of the glorious victory of April 1782, the House had unanimously voted their grateful thanks, not to captains Balfour and Thompson alone, but to lords Rodney and Hood, and all the officers and sea-

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men employed in the fleets that achieved the victory. Was the House, therefore, partially to select captains Balfour and Thompson, and make them the subject of an address to the Crown, to bestow some distinguishing mark of its favour upon them, because they had been thanked in the lump with a great number of other gallant officers and brave seamen? He contended, that the vote of thanks had no reference whatever to the present motion, and that it could not, with any sort of reason, be made to bear upon it. He took notice of the allusion to what had been stated in the newspapers, relative to a noble lord having in another place compared a post captain to a serjeant of grenadiers, and said, disorderly as the allusion had been, it served to show the impropriety of making references, which being founded in misrepresentation, could only lead the House into acts of error and injustice. He explained in what sense such a comparison would hold, without at all derogating from the character or the honour of the naval profession. He drew the line of distinction between the fit qualifications of a captain of a ship and the commander of a fleet, and stated, that a capacity to command, was not always the concomitant of mere valour. He defended the conduct of the first lord of the Admiralty, and said, he hoped the very gross manner in which the hon. mover had described the offices that candidates for promotion must assume, was rather to be imputed to an intemperate phrase having escaped him in the warmth of debate than to any settled design of throwing out an insinuation of an illiberal nature, with a view to fix a stigma on the character of the first lord of the Admiralty. He entered into a defence of the superannuated establishment, which he denied to merit the harsh and invidious epithets that had been bestowed upon it; declaring, that so far from its being justifiable or true, to say that those officers who were put upon that list were rejected, degraded, and stigmatized, the very reverse was the fact. It was an honourable retreat from service, a comfortable provision for advanced years, and a fit reward for meritorious services. Did the hon. gentleman mean to say, that all those brave and gallant officers who had been put upon the list since its institution, were superannuated for incapacity: 139 captains had, in that period, been promoted to the flag, and 244 had been superannuated. Did it, therefore, follow, that these 244 were all incapable of service? No: no man would, surely, maintain so strange an assertion. The real cause for the superannuation was the existence of a manifest difference between capacity to serve as a captain, and capacity to command; and it was the duty of a first lord of the Admiralty to mark that difference, and act upon the distinction.

Lord *Hood* said that, called upon as he had been, it was impossible for him to sit silent. He declared that captain Thompson had done his duty as became a good officer on the 12th of April, and had taken one of the enemy's victuallers, under particular circumstances, which he described. Having done the captain ample justice, the noble lord concluded with saying, he entertained great apprehensions, that much prejudice to the service might result, if that House were to interfere at all with the executive department in the promotion to the flag. He therefore wished the motion to be withdrawn.

Lord *Mulgrave* said that, on the present occasion, he felt himself obliged to make one exception to the general rule which he had prescribed to himself of not discussing the merits of any officer by name. The officer on whose account he wished to make that exception, was commissioner Laforey, as deserving and as able an officer as any in the service. He had himself been the person who first proposed to that gentleman the acceptance of the office of commissioner of Plymouth yard, but, at the same time, he was sure it was as little in Mr. Laforey's idea as in his contemplation, that he would be set aside from his rank at the period of promotion, on account of his being a commissioner. He reminded the House, that he had, on a former occasion, expressly stated, that, in his opinion, the promotion to the flag was not a reward for past services, but a claim for future services. With regard to the superannuated list, it was indisputably designed as an honourable retreat from service; and as it was in the order of council stated to be established for the benefit of those officers, who had served well and ably, it could not, with any sort of propriety, be termed a degradation to be put upon it. Yet, as every officer naturally looked up to a flag, as the end and object of his services, it was extremely mortifying to him, to remain ignorant, until the hour of promotion arrived, that he was not to attain his ob-

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ject. Officers put upon the list, though it was an honourable provision, could not avoid feeling the disappointment. His lordship descanted on this circumstance, and suggested that an establishment like the superannuated list might be formed for the provision of such meritorious officers as from infirmities found themselves incapable of farther actual service. He explained himself to mean that they should, upon feeling the infirmities to which advancing age was liable, have it in their power to ask for their own superannuation, instead of waiting till the hour of promotion arrived, and having then the mortification to find that their ambition was at an end, and that the superannuated list was considered as the fit reward for their past services. He next spoke of the old practice of making promotions to the flag in terms of praise, and took occasion to mention sir George Pocock, lord Anson, and lord Hawke, as the three best friends to the profession that ever sat at the Board of Admiralty. He expressed his apprehensions, that if the motion were carried, it would injure the cause it was intended to promote.

Mr. *Bastard* made a short reply. He said that seeing the sense of the House against his motion, he would with permission withdraw it. He would, however, on some future occasion, move for a committee of the whole House, to take into consideration the late promotion of officers to the flag.

The motion was, with leave of the House, withdrawn.

Proceedings on the Impeachment of sir Elijah Impey.] Feb. 11. The House having resolved itself into a committee to consider of the articles of charge against sir Elijah Impey, sir Gilbert Elliot moved, that Mr. Farrer, a member of the House, might be examined in his place.

Mr. *Farrer* declared, that he had it in his power to throw more light upon the business of the first charge than any other man could, and he had no objection to be examined, provided it was at the desire of both parties and of the committee, but that he would, on no account, consent to be considered as the witness either of the accusers, or of the accused. Mr. Farrer said, that he had been at one time known to be in friendship with sir Elijah, but that it was equally well known in India that they were soon after on bad terms together. As therefore he had no wish to conceal what he knew, but fairly and impartially to tell the whole, if any part of what he should say, should appear to be much in support of sir Elijah, it might be imputed to him that he was influenced by the favours formerly received; and if, on the other hand, any part of his evidence should appear to press severely on sir Elijah, that might be ascribed to improper motives, and thus, either way, his character would stand affected. On these considerations it was, that he did not like the appearance of coming forward as a volunteer witness in the business, although he had no objection to be examined, if it was either the desire of the parties, or the sense of the committee.

Sir *Gilbert Elliot* said, that every gentleman had a right to act as he pleased from feelings of delicacy like those which the hon. gentleman had described. The only way, therefore, to meet the hon. gentleman's wishes was, to desire the Chairman to state, that Mr. Farrer might be examined.

This was done; but Mr. Farrer still expressed some reluctance unless it was desired by the parties that he should be examined.

Mr. *Pitt* said, it must be the desire of every gentleman to hear all the evidence they could, touching the charges upon their table; and as the hon. member was in possession of much information, it could not but be the wish of the committee that he would communicate it without reserve.

It being proposed to call sir Elijah to the bar, and ask whether he had any objection to having Mr. Farrer examined,

Mr. *Sheridan* observed, that if such a measure were adopted, it would put the House into a most embarrassing situation, as it would be difficult for them to proceed, in case sir Elijah should refuse to consent. The hon. gentleman had already informed the committee that he had it in his power to throw more light upon the subject of the first charge than any man living, and that if it was declared to be the sense of the committee, he had no objection. He would therefore move, to declare that it was the sense of that committee that Mr. Farrer be examined.

The motion was put accordingly, and Mr. Farrer having asked for candles, and a table to put the various papers upon to which he should have occasion to refer, proposed that a general question should be put to him, in answer to which he would

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regularly go through a narrative of all he knew upon the subject; and after he had finished he should have no objection to be examined as long as the committee thought proper. Sir Gilbert Elliot thereupon moved, that Mr. Farrer be desired to inform the committee what he knew relative to the subject matter of the first charge against sir Elijah Impey. To this question it was objected that it was too extensive, and that it would be better for Mr. Farrer to confine himself to answering such questions as should be put to him in the usual mode of examining witnesses. This idea was started by Mr. John Scott, and supported by Mr. Pitt and others, while Mr. Fox, Mr. Francis, and other gentlemen contended for the mode proposed by Mr. Farrer, not only as the usual mode, but as that calculated to elucidate the subject and inform the House. At length the contest concluded by Mr. Farrer declaring that there was a variety of material facts in his power to relate, to draw out which it was not in the power of any member to frame a question sufficiently forcible.

Mr. Farrer then proceeded to give his evidence, and began a regular detail of all the circumstances of Nundcomar's case, tracing them from the first time of their agitation, before sir Elijah Impey's arrival in India, down to the arraignment of Nundcomar, on an indictment for perjury in the Supreme Court of judicature. In the early part of the narration, Mr. Farrer stated that he had in his hand a warrant, on the back of which was written by an attorney, an account of the conversation of the judges, upon application to them to grant a writ of habeas corpus to Nundcomar. He said, the gentleman who wrote the account was gone to India, but that he knew it to be his hand writing. Having said this, he read the account, and it was taken down by the clerk at the table.

Mr. *John Scott* (member for Weobly) rose, and seriously declared his conviction that his former objection was a right one, and that the witness ought not to have been suffered to give his testimony in any other way but in answer to such questions as might have been put to him. The paper just read would not have been received in any court in the kingdom, since it was not evidence, but a mere hear-say account of a conversation. He enlarged upon the established law of evidence, and the necessity of strictly adhering to it in all proceedings in any sort leading to a judicial determination. This gave rise to a debate upon the nature of the proceeding the committee were then engaged in. The Attorney General, Mr. Hardinge, and Mr. Bearcroft supported Mr. Scott's arguments, while Mr. Fox, Mr. Anstruther, and Mr. Sheridan contended against them.

Mr. *Fox* maintained that the paper just read was a proper paper to be upon the table, considering the nature of the present proceeding, and declared that it was not a proceeding at all analogous to any legal proceeding in the courts of Westminster Hall, nor was the House at all bound by the rules of legal evidence. They were examining whether it would be proper for them to accuse sir Elijah according to the charges that had been exhibited against him by one of their own members, and in order to attain this end they were inquiring what probability there was for them to get at sufficient evidence to support such an accusation at the bar of the House of Lords. Every thing, therefore, that led to evidence was worthy their attention. The paper just copied down was of that nature; though not evidence itself, nor capable of being used as evidence, it threw a light on an important transaction, and pointed out to the House that the evidence of that transaction would be material. Mr. Fox adverted to the distinction between parliamentary and a judicial proceeding, and asserted that no two proceedings could be more distinct. He attacked the lawyers with a good deal of warmth and asperity, for coming down in a body to puzzle and confound the members of that House, by laying down rules of law-practice in cases where they did not apply, and reminded the committee that the House had, on various occasions, exerted its authority, and even gone so far as to punish the judges by impeaching them for misconstruction of the laws of the land.

Mr. *Pitt* reprobated the unseemly wrath with which the right hon. gentleman had attacked his learned friend for having stood forth the advocate of the established law of evidence, by a strict adherence to which his learned friend had, so much to the credit of himself, and to the benefit and advantage of those who employed him, maintained their causes. These remarks he thought due to justice, though he was in the present instance inclined to adopt the principles laid down by Mr.

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Fox relative to the proceedings in which they were then engaged, and which was an inquiry what evidence could be obtained, rather than a judicial process.

Mr. *Bearcroft* could not avoid expressing his astonishment at the illiberal obloquy with which Mr. Fox had treated a whole profession. He said, that if he was to lay his finger upon the particular point that had raised the practice of law in this country so high in the estimation of all the world, it would be upon the law of evidence. He took notice of Mr. Fox having said he was bred in that House, and declared, if his late speech was to be taken as a proof of that breeding, he desired no more of it. He justified gentlemen of his profession from the charge of being actuated on the present occasion by an esprit du corps. Was it, he said, to be wondered at, that lawyers should appear anxious to attend the agitation of a charge against a lawyer of long standing and unsullied character, and that charge as black a one as ever was imputed to any man or even any lawyer?

Mr. *Sheridan* said, that the learned gentleman, he perceived, was desirous of not only teaching the House law, but breeding, and he wished still farther to teach them French. He could not but admire the comical sort of argument which the learned gentleman had used in justification of his profession. He had said every thing handsome of them, and had followed his encomium, by adding whimsically, that the charge against sir Elijah Impey was as black as could be brought against any man, nay, against any lawyer. Mr. Sheridan declared that he could not pass over in silence the reflections cast on his right hon. friend for a speech, which did him infinite honour. He was sure his right hon. friend had meant nothing personal; but was it to be wondered at, that in his zeal to defend the privileges of that House, he should reprobate the attempt to mix the practice of the law courts in their proceedings, to which they were utterly inapplicable? The paper in question was, in the true sense of the words, good evidence; for what was good evidence, but that which was applicable to the end to which it was applied, and which the court, before whom it was exhibited, was competent to receive. Different courts, it was well known, had different powers; and what would be evidence in one court, would not be evidence in another. Thus, what was evidence in the Court of Chancery would not be evidence in the Court of King's-bench, nor would that testimony that was good evidence on a trial for felony be admissible on a trial for high treason.

At length Mr. Farrer was desired to proceed. He continued to give his evidence until eleven o'clock; when Mr. St. John adjourned the committee, and asked leave to sit again to-morrow.

Mr. Farrer continued his evidence on the 12th, and closed it on the 20th. It went to prove the full approbation of the judges of the Supreme Court in the condemnation of Nundcomar, and the wish of the jury and judges to prosecute the witnesses for Nundcomar, who had evidently perjured themselves most grossly. It also stated, that all favour in the power of the Court, had been extended towards Nundcomar, who had experienced every humanity from sir Elijah Impey particularly.

Mr. Rous then rose in his place, and having signified his consent to undergo an examination, proceeded to state to the committee a narrative of the prosecutions carried on against Nundcomar for forgery in the Sudda Dewannee Adaulet, of which he (Mr. Rous) had been president, previous to the Supreme Court being established, and consequently prior to the capital indictment being preferred for that forgery against Nundcomar. Having concluded the narrative of those proceedings, he had several questions put to him. After which, the Chairman reported progress, and asked leave to sit again.

Feb. 26. The House having resolved itself again into the Committee, Mr. Windham in the Chair,

Mr. *Francis* expressed his concern that there was not a more full attendance, and especially that some gentlemen were not present who had heard sir Elijah deliver that speech at the bar, in which he had thought fit to pass a censure on the conduct of general Clavering, colonel Monson, and himself. After premising thus much, he addressed himself to the Chairman, in nearly the words which follow:

Mr. Windham; I flattered myself, Sir, that when the House thought proper to exclude me from the Committee of Managers, whether that resolution was meant to be a discharge from a service, or a relief from a duty, it would have had this effect, at all events—that from thenceforward I should be suffered to remain in a state of neutrality; and that, as I was

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deprived of the honour, I should also be exempted from the cares and censures, to which the managers of an impeachment must unavoidably submit. But much more had I reason to expect that, after the public declaration, which I made in Parliament almost two years ago, "that I would never sit in judgment upon sir Elijah Impey, and that I would never give a judicial vote in any cause, in which he might be a party, unless I could safely give it for him;" having avowed that declaration in print; having since repeatedly declared to my friends, and particularly to my hon. friend (sir Gilbert Elliot) near me, that I would never take a part of any kind in the prosecution of sir Elijah Impey, and having strictly adhered to the spirit of those declarations, I should not have been implicated in any shape in the impeachment of that gentleman. Least of all did I expect that I should be accused by him of having borne testimony to his good conduct, and compelled by him to answer as a criminal, for declarations, which he tells you I have heretofore made in his favour. I do not mean to deny his right of mixing accusation with defence, if to criminate others be in any degree material, or even useful to his own exculpation. In some cases, undoubtedly, the weapons of attack are the best, perhaps the only weapons of defence. Whether the use he has made of those weapons, and the manner in which he has availed himself of his undisputed right, on this occasion, be perfectly prudent or not, can only be determined by the event. All I assert and contend for is, that I, in my turn, may be allowed the same latitude which he has taken, and which I allow him. It is not my direct object this day to criminate him or any man. But it may be necessary to my defence. It may be unavoidable. Defence and accusation, in this particular case may be inseparable. If that should happen, I desire it should be remembered, that, besides the general right which, for myself, I admit, I stand upon the specific use which he has made of it, and follow the precedent which he has himself specifically set me.

Sir, the situation in which I have lately stood in this House has been equally painful and invidious. I have been repeatedly the personal object of debate; the middle passive subject between the action and the re-action of the powers of the House; between the hammer and the anvil. How irksome such a situation must have been, I leave to the sensations of those who have stood in the same situation themselves. Much has been said of my character, much of my temper. I have, by one learned gentleman (the Master of the Rolls) been accused of comparing myself with him, and with others of his profession. Such a comparison I never presumed to make. Arrogance is one thing, passion is another; passion I have ever conceived to be an honest, open, and manly emotion of the mind; arrogance, on the contrary, I take to be a cold, deliberate, thoughtful thing. I may have made use of warm or passionate language perhaps, but I was never guilty of the presumption and arrogance which has been imputed to me. I stand up now as defendant against a charge: as such I hope to be heard patiently, and with a fair and liberal construction; that is all I desire.

The charge brought against sir John Clavering, colonel Monson, and myself, by sir Elijah Impey, as I understand it, amounts to this:—"That whereas we had by sundry declarations and minutes, both before and after the event, expressed or strongly intimated our opinion, that the prosecution, trial, and execution of Nundcomar were founded on political motives, and pursued for the sole purpose of saving Mr. Hastings from the effect of that man's evidence, no credit ought to be given to the same, because we had, in a few days after the execution, ordered a paper, purporting to be a petition from Nundcomar against the Judges, to be burnt, the entries of it to be expunged, and the translations to be destroyed: and, because I had, on that occasion, declared, that I considered the insinuations contained in it as wholly unsupported, and of a libellous nature, and that to send a copy of it to the Judges would be giving it much more weight than it deserved." If this be the charge, I admit the facts and deny the conclusion. I request the House to divide the charges into two parts, and to consider it: 1. As it regards us collectively: 2. As it personally regards general Clavering in particular.

But, first, to consider how this paper came into sir Elijah Impey's hands, and in what state, and with what proof of its authenticity it is now brought before the House. [Here Mr. Francis read an extract from the Bengal Appendix, p. 585. dated 26th August, 1775.] On that day we resolved that the original should be burnt by the hands of the common hang-

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man; to which Mr. Hastings repeatedly said he had no objection; but observed, that this would not be enough, as the paper stood on our records, and would that way become public. To remove that objection, I proposed that the entry should be expunged, and it was agreed that it should be, and that the translations should be destroyed. The resolution was unanimous. Mr. Hastings approved of it, and was party to it. On the 28th of August the Judges wrote to us in the following words: "A paper containing a false, scandalous, and malicious charge against the Judges of the Supreme Court, produced at your board, having been by you declared a libel, and ordered to be burnt by the hands of the common hangman, we return you our thanks for having shown so due a sense of this outrage to public justice; but, as we must be interested as well in the minutes introducing and condemning the paper, as in the paper itself, we find ourselves obliged to desire that you will furnish us with a copy of the libel, and of such minutes, which relate to it, as stand on your consultations, and must, therefore, be conveyed to England, that we may judge whether they contain any matters necessary for us to take notice of." The following was our reply, dated Sept. 11, 1775. "We shall be much obliged to you, if you will be pleased to acquaint us, from whom you received the imperfect information which appears to have been conveyed to you, on this and other occasions, of the proceedings of this Board in our secret department; such communications cannot regularly be made to you but by the authority of the Board, nor can they be obtained without a breach of trust in some of our officers, which we are persuaded you would not encourage. With respect to the libel, it is not possible for us to furnish you with a copy of that paper, having ordered the original and translations to be destroyed, and no copy to be kept of either." This letter was signed by Mr. Hastings, who knew that he alone had given the information. It is true he disapproved of the draft, but not for the true reason, which he ought to have assigned and which would have prevented our writing that paragraph; neither can he pretend, that he held himself bound by the sense of the majority to sign the letter, because, on the 16th of June, 1775, he positively refused to sign a letter to the judges, of which he disapproved.

Sir. Elijah Impey tells you, on another occasion, that he knew nothing of the contents of the charges of Nundcomar against Mr. Hastings. "How should he? They were produced before a secret council; they were examined by a secret committee of which all the members, their clerks and secretaries were sworn to secresy." Mr. Hastings nevertheless communicates this paper to him, and through his channel to the other judges. I shall presently show that he imparted many other parts of our proceedings to him. Sir Elijah affirms, that although the paper was imparted to him, he never saw the minutes till very lately, when he procured a copy of them from the India House. This is very extraordinary, and indeed it is incredible, that Mr. Hastings should show him the one and not the other; especially as it appears that in January following, he communicated to him several other minutes signed by us, in which charges against him were certainly expressed, and especially as these very minutes were printed by the Directors and in possession of many people in Bengal, in the course of 1777, or 1778, and, I believe, read by every body in Calcutta. I know they were by many. Mr. Hastings takes upon him not only to communicate the paper, after he had agreed that the entry should be expunged, and the translations destroyed, but even alters the translations in many parts. Who will say that a paper so communicated, so altered, and so produced, deserves any credit? What is a secret committee? The name sufficiently speaks its character; and in respect to the secret committee of council in Calcutta, not only Mr. Hastings and every member was bound by an oath of secresy, but the secretaries and clerks, and every one of their officers. Even if there had been no oath, Mr. Hastings was bound in truth and honour by his own agreement. I for my part, hold such an agreement to be equally binding with an oath.

The original paper, I have no doubt, contained insinuations against the judges, and that those insinuations, being wholly unsupported, deserved no weight; the description I gave of it was exact:—it was a libel on the whole court of justice, in the strict and proper sense of that word. The question is, whether by these declarations I contradict many others in which I have charged the prosecution and execution of Nundcomar against sir Elijah, as a political measure of the most atrocious kind. At first sight, it is not very likely that we,

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or any men who were not absolute ideots, should enter such contradiction on the same records, and place ourselves before the Directors in a point of view which must utterly annihilate their confidence in us: that without any apparent reason we should deliberately contradict ourselves, and record our own condemnation on the face of our proceedings. Is it a thing to be believed, that having advanced such a charge, we should lightly abandon it; and that having abandoned, we should resume and reassert it, without once attempting to reconcile or explain the inconsistency, if it was one?

Let the House judge of the following declarations made by us, before and after the execution of Nundcomar.

Minute of Mr. Francis.—"April 24, 1775. I beg leave to observe, that a prosecution for a conspiracy is now instituted, or is intended to be instituted, against Maha Rajah Nundcomar and others; the tendency of which seems to me to be to prevent, or deter him from proceeding in making good those discoveries which he has laid before the Board: I cannot but think that the East India Company, and consequently this Board, have a very great concern in every step taken in that prosecution, whether it be actually begun or intended."

Minute of General Clavering.—"May 8, 1775. In reply to what the Governor General has just said, I conceive that the protection of the inhabitants of Bengal is immediately trusted to our care, and that it properly belongs to us to represent to the judges such matters as may appear to us, wherein they have acted improperly, either wilfully or ignorantly. In the present instance, they probably are ignorant how much a close confinement may endanger the life of this man, which is of so much importance to the public, for proving an accusation, which he has made, of venality in the Governor General.

Minute of Clavering, Monson, and Francis.—"Sept. 15, 1775. After the death of Nundcomar, the Governor, we believe, is well assured, that no man who regards his safety, will venture to stand forth as his accuser. On a subject of this delicate nature, it becomes us to leave every honest man to his own reflexion. It ought to be made known, however, to the English nation, that the forgery, of which the Rajah was accused, must have been committed several years; that in the interim he had been employed and protected by Mr. Hastings; that his son was appointed to one of the first offices in the Nabob's household, with a salary of one lack of rupees; that the accusation, which ended in his destruction, was not produced till he came forward, and brought a specific charge against the Governor General, of corruption in his office."

Ditto—"Nov. 21, 1775. It seems probable, such embezzlements may have been universally practised. In the present circumstances it will be difficult, if not impracticable to obtain direct proofs of the facts. The terror impressed on the minds of the natives, by the execution of Maha Rajah Nundcomar is not to be effaced; for, though he suffered for the crime of forgery, yet the natives conceive he was executed for having dared to prefer complaints against the Governor General. This idea, however destitute of foundation, is prevalent amongst the natives, and will naturally deter them from making discoveries which may be attended with the same fatal consequences to themselves. Punishment is usually intended as an example, to prevent the commission of crimes; in this instance, we fear, it has tended to prevent the discovery of them."

Ditto—"March 21, 1776. Some of the facts with which he (Mr. Hastings) has been personally charged, have been proved. The presumptive evidence in support of the rest, will, we apprehend, lose none of its force, by the precipitate removal of Maha Rajah Nundcomar."

The petition was brought before us after the man's death. It charged the judges with having murdered him, for having accused Mr. Hastings, or to that effect. It came before us without a responsible accuser, without a witness to prove, or evidence to support it; the fabrication of a man publicly executed for a crime, and consequently no longer capable of proving his allegation. This being the case, it was what I called it, a libel, and nothing else. I called it so then, I call it so still; though I was not then, nor am I now convinced, that the substance of it was untrue. But it included all the judges; concerning two of whom (justice Hyde and sir Robert Chambers) we never had a suspicion of corrupt motives: and concerning another of whom (Mr. Justice Le Maistre), we had then no ground of suspicion, excepting his intimacy with sir Elijah Impey, and the vehemence with which, at that period, he supported that gentleman's opinions. We

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therefore treated it as a libel against a whole court of justice ought to be treated.

This is no new distinction in me; no after-thought, no *ex post facto* vindication. When Mr. Hastings accused me personally, about three months before, of presenting a libel to the Board, what was my answer on that occasion?

Extract of a Minute of Mr. Francis—"March 21, 1775. The Governor General, who had long expected the appearance of such a letter, and was apprized of the contents of it, made no objection, however, to its being received and read at the Board. When the man who advances a specific charge, declares himself ready to come forward and support it, and to hazard the consequences of failing in his proofs, it may still indeed be presumed that the charge is false; but it does not partake of the nature of a libel. A libeller advances charges which he does not intend, or is unable to make good:—When called upon to appear and produce his evidence, he shelters himself, sometimes in the obscurity, sometimes in the superiority of his situation, and leaves the accusation without an accuser, to operate as far as it can, in the opinions of men, against the honour and reputation of the party accused. Rajah Nundcomar is not an obscure person in this country, nor does he in this instance act the part of a libeller. He is himself of very high rank; he publicly accuses the Governor General of misconduct in his office, and desires to be heard in person in support of his charge."

This is my defence against the charge, as it affects us collectively on the face of our proceedings. But we had other motives for our conduct, which do not appear upon the records, and which I shall now lay before the House. This concerns general Clavering and not myself. In this part he is properly the defendant, and not I. If favour, protection, and indulgence are due to a man who is here to defend himself (and they have been shown in an eminent degree to sir Elijah Impey) how much more are they due to a man of great character, who is not here, who is not only absent but dead, and who died in the service of his country; not in an honourable but a most odious service; not in the field of battle, where his gallant mind would have led him, but in an odious, unprofitable contest, with men; I will not qualify them. It is sufficient to say, that he thought himself dishonoured by the contest. I cannot undertake to answer for all the motives of his conduct in this transaction, but I think I can for some of them. Let gentlemen recollect the general temper of the settlement. The union between the Governor General, Mr. Barwell, and the judges, or some of them, and the general combination amongst them against us. That we were considered in the settlement as the common enemy, and Mr. Hastings looked up to as their common protector. That sir Elijah, in one of his letters to us, had already declared, that reports were publicly circulated in Calcutta, that if the judges could not be prevailed upon to release Nundcomar, he would be delivered by force, *manu forti*, by the Commander-in-chief.

Against this imputation, general Clavering thought it necessary for his safety to exculpate himself by oath. I say 'safety,' because I am firmly of opinion, that he would have been in as great danger as Nundcomar, if the judges could have found any thing to lay to his charge. Colonel Monson and I did the same. The general says in his Minute of the 14th of August, 1775, "that he was resolved not to make any application whatever in favour of Nundcomar." He knew, by experience, that all such applications would be useless; that they would be much more likely to injure than to serve Nundcomar, and that our intercessions would rather hasten than delay his execution. In support of this assertion, I beg leave to read to you some passages from our records. The House will observe, that we had often applied to sir Elijah for some indulgence to this unfortunate man in the mode of his imprisonment, particularly that he would not suffer him to perish for want of sustenance. Sir Elijah says, in reply, in his letter of the 9th of May 1775: I must make it my request, that the Maha Rajah may be acquainted by the Board, that if he has any farther application to make for relief, that he must address himself immediately to the judges, who will give all due attention to his representations; for should he continue to address himself to the Board, that which will, and can only be obtained from principles of justice, may have the appearance of being obtained by the means of influence and authority, the peculiar turn of mind of the natives being to expect every thing from power, and little from justice." In another letter, dated May

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15, 1775, he says, "I did not, nor do not question the authority of the Board in receiving petitions; I carefully restricted what I said to this individual prisoner; I did not desire his petitions should not be received, but when received, if they were to desire any thing from the judges or the court, that the answers given to these petitions should be, that he must apply himself directly to the judges; and this I did to avoid the imputation I then alluded to, and which would be equally derogatory to the character of the council, as that of the judges"

On the 27th of June, we sent to the judges, an application from the Nabob of Bengal, in favour of Nundcomar; to which the following is their answer sent by message, June 25, 1775: "That the court is of opinion, that all claims of individuals ought to be made directly to the court by the individuals, and not by the authority of the Governor-general and council. That it is contrary to the principles of the English constitution, for any person or persons to address a court of justice by letter missive, concerning any matter pending before such court, and that the higher the station of the person or persons so addressing, the act is the more unconstitutional."

On another application made, at the same time, by the Nabob, through us, in favour of his own vaqueel, or minister, at Calcutta, sir Elijah wrote as follows: "June 19, 1775. As to communicating petitions to the judges, I apprehend that no board, even of the highest authority in England, can refer any matter, either to a court of justice, or any judge thereof, otherwise than by suit legally instituted." In a subsequent resolution upon the same subject, the judges say, "It is with the deepest concern we find the council still persist to address the court by letter, on subjects pending in court, or on which the court have given their opinion, and that, notwithstanding the frequent declarations, and unanimous opinion of the court, upon the impropriety of the mode of address." Sir Elijah declared from the bench, that the Governor-general, and council, whom he considered as nothing more than as agents of the East India Company, could only apply to the court by humble petition, and that the court could not receive in future any letters or messages but in that form.

After all this passed, it is not much to be wondered at that general Clavering should resolve not to make any more applications in favour of Nundcomar. He was a strict, rigid man, not as some thought, cruel, but rigid, even to prudery, as I sometimes told him, when I have seen him refuse little presents of fruit and flowers, that certainly did not come within the legal prohibition of presents; he was very tender of public reputation, and particularly fearful of the imputation of supporting and encouraging the accuser of Mr. Hastings, an imputation which he was sure he should incur, and equally sure of doing Nundcomar no service. What he did, was in truth, a rash and inconsiderate act: namely, the bringing the petition at all before the Board. The man was dead, and general Clavering made himself the publisher of the libel. He put himself in the power of his enemies, who infallibly would have ruined him. This, let it operate as it may, I declare upon my honour, and I shall, if necessary, upon my oath, was a strong concurrent motive with colonel Monson and me, for getting the paper destroyed. As Mr. Hastings entirely agreed with us in every thing we did relative to the paper, I never had a doubt that all the translations of it were destroyed, until sir Elijah produced a copy of it at the bar of the House. Of the authenticity of which you have no evidence, and which, admitting it to be authentic, must have been obtained by means the most unjustifiable; by means which prove, what we always suspected, that we were betrayed by one of our own board to sir Elijah Impey, and by means, which prove to demonstration the collusion and confederacy that subsisted from the first, between sir Elijah Impey and Mr. Hastings.

After expatiating on this collusion and confederacy between the Governor-general and sir Elijah Impey, and avowing, in the most solemn and explicit manner, that the essential motive of his standing so forward respecting the destroying the copy and translations of the petition sent by Nundcomar, previous to his execution, to general Clavering, was not the public one that he had assigned at the consultations, viz. that it was a libel; but his fear for general Clavering's safety, not knowing to what length those judges, who had already dipped their hands in blood to answer a political purpose, might proceed on the same principle, Mr. Francis took notice of what had passed relative to Nundcomar's application to be taken out

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of the common gaol of Calcutta, and put into some place where he could take food, and perform his ablutions, &c. conformable to his religious scruples. He said, he believed Nundcomar to be serious in those scruples; that he gave a strong proof that he was so, by continuing to refuse food for 60, and as it had been stated, for 80 hours together. The manner in which general Clavering's daughters had been treated by sir Elijah at the bar of the court, had been most unwarrantable. Their conduct had been grossly misconstrued; not all their virtues their youth, their beauty, nor their many accomplishments, could rescue them from the most illiberal misrepresentation, and that hazarded merely to make them, by a forced and false construction of their conduct, to appear as evidence against their father. That act, an act of charity, which would have thrown a lustre over age and deformity, and sheltered even vice itself from reproach, was perverted and falsely urged as a proof against their parent. They had constantly sent to inquire about Nundcomar's health in his confinement, and endeavour to make his situation as easy as possible. He avowed that he had done the same. If it was a crime in the ladies, it was equally a crime in him. He had done it continually, and he should have considered himself as devoid of humanity had he done otherwise. The common gaol of Calcutta was a most miserable place; bare commitment to it was equal to a sentence of death. Mr. Naylor had died in consequence of being confined in that prison. Many who had heard him, knew it to be a fact. Let gentlemen, then, consider what Nundcomar, a man higher in rank than he or any of the council, must have felt from a confinement in such a place. Nundcomar, who had held the office of prime minister of his country! It was true, the Supreme Court sent Pundits to him, who declared that Nundcomar might take sustenance without incurring more than a very trivial censure; but Nundcomar had told him, the Pundits were not of so high a cast as himself, and were incapable of advising him or feeling his scruples. Nundcomar, he declared, was of the highest order of the Brahmins, and, therefore, what he had asserted was most probable, especially as he continued, though an old man, upwards of seventy to refuse sustenance, till the judges themselves were alarmed at the idea of an "illegal murder," and had cause Nundcomar to be removed to a place of confinement, more adapted to his being able to perform what his conscience told him his religion required.

Mr. Francis concluded with observing that, as the best evidence against any man was that of the man himself, he would undertake to satisfy the Committee, that sir Elijah Impey, when he was in Bengal, never looked upon the transaction, on which he now pretended to place so much reliance in the sense in which he had lately represented it:—that he never once before now thought of giving that construction to our act, in burning the petition of Nundcomar, which he had lately endeavoured to fix upon it, namely, that it amounted not only to a flat contradiction of any opinion we had or might deliver to the disadvantage of the judges in that business, but did express and convey a direct and explicit justification of their conduct. To prove that this was not the opinion of sir Elijah in 1775, Mr. Francis read several passages out of a letter from sir Elijah to the Secretary of State, dated the 20th of January 1776, written on purpose to vindicate his character from the aspersions "uniformly thrown upon it," by Clavering, Monson, and Francis, for his conduct in the business of Nundcomar, and to charge them with having constantly imputed to the Court the most atrocious motives for their conduct by strong insinuation, malignant sarcasm, and severe censure; and to accuse them also of attempting on sundry occasions, to over-awe or reduce the authority of the Supreme Court.

Mr. Francis then observed, that if sir Elijah had at that time considered their declaration, that Nundcomar's petition was a libel, and burning it in consequence, as any proof of their opinion in his (sir Elijah's) favour, he would have stated and urged it for that purpose, in his letter to the Secretary of State; which, consisting of a great number of sheets, was from beginning to end a professed defence of himself against their charges; and a laboured effort to recriminate on them. Instead of doing so, the fact was not mentioned, or so much as alluded to, in the whole of that voluminous letter. Yet, that was the time, if ever, for him to have availed himself of the evidence of the persons he calls his enemies against themselves, and to invalidate any declarations they might have made against him on other occasions. The conclusion was irresistible, that while he was in Bengal, or

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at least when he wrote that letter, he had not the most remote idea, that the act of those gentlemen, on which he now insists, would bear the construction he now gives it. But why does sir Elijah declare that he never saw the minutes of the secret committee till lately? The reason is obvious —because, had he admitted that he had seen the minutes in Calcutta, as he certainly did, his letter to the Secretary of State, dated Jan. 20, 1775, would have been a manifest falsehood as a charge, and palpably defective as a defence. It would have been false upon the face of it, and his answer to the charge criminating him on account of the execution of Nundcomar, would have been most unaccountably defective by the omission of that, which, if true and agreeable to his construction of it, would have been the best answer of all, viz. our own acquittal of him by the minutes in question.

Having put this appeal to common sense in the most forcible point of view, Mr. Francis said, he hoped he had answered the accusation and the censure cast upon sir John Clavering, col. Monson, and himself, in a manner satisfactory to the feelings of every gentleman present, and of every honest man who heard him. He had been under some difficulty on account of sir Elijah having made the imputation orally, and without delivering in this part of his defence in writing. He would act more fairly, and challenge sir Elijah to put his charge upon paper, declaring, in the face of the House, on his part, that if he would do that, he would deliver in his defence in writing likewise. He wished but to make one farther observation, and that was to remind the House of the extraordinary manner in which Mr. Hastings and sir Elijah Impey had both proceeded in defending themselves from the charges stated in express terms againt them, and in specific form. The very first thing those men thought it necessary to do, was to mark him as their enemy; they deemed it essential to their safety, to single him out as a person proper to attack, to calumniate, to discredit, to disqualify, and to remove. He knew not how other gentlemen might feel, but he owned himself proud of the distinction: he considered it as an honour. He was not the personal enemy of either of those men, but as long as his name and his character should exist, he hoped they would be known in opposition to theirs, and that his name, conduct, and character would everlastingly remain contrasted and considered in eternal hostility with the names, conduct, character, and hearts of Mr. Hastings and sir Elijah Impey.

As soon as Mr. Francis had concluded, Major Scott rose to make some observations, but was told that the present was not the fit opportunity. Several witnesses were then examined upon the subject of the first charge. After which the chairman reported progress, and asked leave to sit again.

*Debate in the Lords on the Mode of Proceeding upon the Impeachment of Mr. Hastings.**] Feb. 21, The order of the day

* On the 19th of February, the sixth day of the trial of Mr. Hastings in Westminster-hall, as soon as Mr. Burke had concluded his opening speech, Mr. Fox rose and stated, that he was directed by the Committee to submit to their lordships, that it was their intention to proceed to a conclusion, on both sides, upon each article separately, before they opened another; that is, to open and adduce evidence to substantiate one charge at a time, to hear the prisoner's defence and evidence upon that charge, and afterwards to reply; and to proceed in the same manner in all the other articles. The Lord Chancellor called upon Mr. Hastings's counsel to know whether this mode would be agreeable to them; and upon their answering in the negative, his lordship addressed himself to the Committee, and said, that their lordships would be glad to know the reasons which induced the managers to call upon the court to adopt that mode. Mr. Fox immediately stated, that in a cause of such magnitude, variety, and complexity, the mode proposed appeared absolutely necessary, and was calculated to prevent confusion and obscurity, to aid their lordships memory, and to enable them to form a more clear and distinct view of the merits of the charge and defence, upon each article, than could possibly be done by any other mode of proceeding. He mentioned the cases of the earls of Strafford and Middlesex, as precedents of the mode contended for by the managers.—The counsel for Mr. Hastings being called upon for their objections, stated, that the mode proposed was contrary to the practice of all courts of justice, and was inconsistent with all principles of equity, as it subjected the defendant to many obvious and most material disadvantages.—With respect to the precedents adduced, they contended, that in both cases the proceedings were regulated by mutual consent of the parties. Mr. Fox replied, and endeavoured to prove that the mode proposed did not subject the defendant to any unfair disadvantages; and, in short, that neither the prosecutors could obtain justice, nor the prisoner have a fair hearing, nor the court dis-

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being read for taking into consideration the mode of proceeding upon the impeachment,

The *Lord Chancellor* left the woolsack, and opened his speech by pronouncing a very fine eulogium upon Mr. Burke, for his mode of opening his charges. He had mentioned circumstances of such accumulated horror, and of such deep criminality, that every thing contained in the articles before their lordships, sunk, in the comparison, to utter insignificance, and the right hon. manager had unequivocally declared that he had not assumed the privilege of an advocate to exaggerate. [Here the Chancellor read his words, as he had taken them down, compared with the short-hand writer] After this, said his lordship, I shall hold Mr. Burke to the proof of all he has asserted. He has mentioned crimes of so deep a dye, that if the defendant was to forfeit all his property, to suffer the most exemplary punishment that their lordships could inflict, it would be far, very far short, of a punishment adequate to his crimes. Their lordships all knew the effect which the description of them had on many very respectable persons, many of whom had not, to this moment, and perhaps never would, recover from the shock which they felt at the relation. But, in proportion as he was ready exemplarily ready to punish Mr. Hastings, if he really was guilty he thought it right to pursue the only methods of ascertaining his guilt, or of clearing his innocence; and for the present he had a right to presume him innocent. What the counsel of Mr. Hastings claimed, was no indulgence, but a right. His imagination could not go to any other possible mode of defending Mr. Hastings than that which his counsel had proposed, namely, that the managers should complete the whole of their case, before Mr. Hastings said a word in his defence. Was it possible they could reply to any one article, before they had opened a general state of their case; its various relations to the occurrences of Great Britain, during Mr. Hastings's government; and in short to complete that plan which the right hon. manager had professed to have taken up, but which, for what reason his lordship knew not, he had abandoned. If the articles were totally unconnected with one another, Mr. Hastings could not, with any regard to his own case, say a word till the prosecution was closed; but the fact undoubtedly was, that the articles were so intimately blended, that he defied any man living to separate them. They comprised the whole of Mr. Hastings's foreign and domestic government for a long series of years. He should not assent, until he heard something like a reason assigned for adopting the recommendation of the commons: his imagination could not form a shadow of a reason to justify their lordships in so doing. But not only had the counsel of Mr. Hastings to defend him against the articles already exhibited against him, they must wait until the criminal matter opened by the right hon. manager was put into such shape, that they could freely meet it, and reply to it. From the specimen which the counsel had given of their talents, he presumed they would, in their general opening, endeavour to invalidate the history of the right hon. manager. Indeed they had been told by Mr. Fox that they might make their general opening as soon as they pleased. What! before they knew all that could be said against them? he added, that as he was bound in conscience to protect Mr. Hastings, if innocent, and to punish him severely if guilty, he never could consent to a mode of procedure, unfair to the defendant in the highest degree, and contrary to the fundamental principles of justice. He then moved, "That the Commons be informed, that they do proceed to produce all their evidence in support of their impeachment, before the defendant be called upon for his defence".

Earl *Stanhope* proposed that the various crimes should be tried separately and moved, "That the Managers for the Commons be directed neither to proceed upon the whole of the charges, nor upon their accusations, article by article, but to proceed upon the criminating allegations one by one."

Lord *Loughborough* opposed it, and replied at length to the chancellor. He contended, that Benares was a single article, containing sundry criminal allegations, totally unconnected with the other articles, and that there could not be the smallest objection to their considering that article separately from the others. Whether the same rule would apply to the other arti-

charge its duty, unless the charges were separated, and both parties heard upon each singly. The Lords then withdrew to their House, and an order was made that they should be summoned, to take the matter into their consideration on the Thursday following.

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cles, might be a matter of future consideration. It was impossible for their lordships to adopt the mode wished for by Mr. Hastings, with safety to the inquiry. The multiplicity of matter contained in one charge, was sufficiently intricate, without uniting the several charges together; each charge contained crimes of different complexions. He asked if any lord present, would, for a moment, contend that such a precedent existed, where crimes of different descriptions and magnitudes were blended together, and on which their lordships were bound to give one ultimate opinion? it would lead their lordships into a labyrinth of perplexity. He contended, that the analogy between the present case and indictments and informations, must fall to the ground. He then gave a fine description of an English trial by jury, and contended, that the law of parliament was not to be shackled by the rules of the courts below, while they did not violate the substantial rules of justice; that they had a right to consult their own convenience with a view to the clearer comprehension of the case. He warned their lordships against a hasty decision of a question on which the interest of thousands was dependent. He then moved, "To agree with the proposition, as stated by the Managers for the Commons."

The Duke of *Richmond* expressed his inability to follow the learned lord in that strain of eloquence which had at all times distinguished him in that House, and never more so than upon the present occasion. His reading on legal points was rather superficial, and therefore he could not be expected to define with such perspicuity and nicety as the learned lord; but the little information he had of legal and constitutional forms, led him to differ most materially with his lordship. His grace entirely concurred with the Chancellor, and professed himself to come with a mind perfectly free and unbiassed, and conscientiously determined to do justice. As to what had been said, that at the close of the whole, a separate question might be put upon each article, that point was by no means so clear to him. He thought the question of guilty, or not guilty, would be more proper; but that was a point for future discussion. If he could have had a doubt upon the present occasion, that doubt would be removed, by reflecting upon what had passed in another place; it would be indecent in him to allude to it, but he would put a case. Suppose the House of Commons had preferred a variety of charges against a gentleman, and that that person, anxious to clear his fame, should agree to be heard; suppose, after being heard, he should be weak enough to give in his defence, and allow it to be printed, and that his prosecutors should actually make use of that defence, for the purpose of drawing articles of crimination against him, should he not, in future, be cautious not to say a syllable, till he had heard every thing that could be said against him? Suppose another person, of some wisdom and caution, should be accused, should be heard, should make a very fine speech, which carried the whole House with him. Profiting by a former example, suppose, when applied to for the minutes of his speech, he should decline to deliver them in, declaring it impossible to arrange them. If such things had happened, or could happen, he who sat as a judge would never agree to place Mr. Hastings in a situation, by which, from inattention, or not making the best of his case, he might become his own accuser. By every law, human and divine, Mr. Hastings was entitled to hear every allegation, opened and proved against him, before he entered upon his defence. In the courts below, no prisoner was called upon for his defence, till every clear account in the indictment was proved, or attempted to be so. If then, said his grace, for crimes of so much inferiority comparatively with the present, a prisoner can, in those courts, demand that as a right, which the managers wish to deprive Mr. Hastings of here, your lordships should step forward, and support the cause of humanity. The crimes imputed to Mr. Hastings, were of so black a dye, as to make humanity shudder, and degraded human nature. But, observed his grace, no man in this country is thought guilty, till he is proved so; and if the crimes imputed to Mr. Hastings are of the description I have mentioned, God forbid we should deprive him of that glorious privilege every subject ought to enjoy, the privilege of choosing the best mode of defending himself and overturning those imputations. His grace then observed upon Mr. Burke's opening, and Mr. Fox's reply to Mr. Hasting's counsel, declaring himself insulted, as an individual of that House, by the expressions of Mr. Fox on that day, and expressing his disapprobation of

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the mode adopted by Mr. Burke. He observed upon the language of Mr. Law, and justified the term 'calumniator,' which Mr. Law had made use of. Calumny, in his conception, was, where unjustifiable language was applied to an undeserving object; or where, admitting the object a deserving one, those imputations were not proved. He had too much confidence in the integrity and honour of Mr. Burke, to doubt for a moment that he either would or thought he could prove every thing he had opened against Mr. Hastings; but that not being the case at present, he did not think him justified in the language he had used, and consequently that Mr. Hastings's counsel situated as they were, were excusable in observing as they had done. Ignorant as he was, he said, he should feel no difficulty in giving his opinion on the whole of the charges together, and though he was of opinion that this mode would be productive of as much expedition as the other, yet even admitting for a moment that it would not, he contended, that neither for that reason, nor any other, ought they to deprive Mr. Hastings of the privilege of choosing what mode of defence he pleased to adopt.

Lord *Stormont* declared, that, after the fullest consideration, he had been able to give the case, he had not a doubt left on his mind as to the impropriety of the mode proposed by the managers to that House. It was, in his opinion, overturning every precedent that House had before adopted, and depriving Mr. Hastings of a privilege he had a right to demand; depriving him of a right which the immutable and eternal laws of justice gave him, to make choice of that mode of defence best calculated to the nature of the charges alleged against him, and the peculiar situation in which he stands. These were privileges, these were liberties, they should be very cautious in being the instrument to destroy. No rank, no character in that House, however eminent, or however innocent, but might be an object, at some future period, of an impeachment; might be placed in the critical situation in which Mr. Hastings then stood. He therefore warned them to be cautious in adopting a mode of proceeding, by which they not only bound themselves, but posterity. The decision of that night would be handed down as an invariable rule in future; and he therefore again warned their lordships to be cautious in that decision. Much had been said of the impossibility of their lordships recollecting, when they came to give their opinions upon the whole of the various facts that had been proved, or such parts of the charges that had been disproved. Did not their lordships take notes? Did not the clerks of that House do the same? Surely they did; and if their lordships had doubts of this recollection, he saw no objection why the proceedings of each day might not be printed, and distributed for their lordships use. His objections against proceeding charge by charge, were strong and determined. He instanced several: the House of Commons might for aught he knew, make the very evidence adduced to overturn one or two of the charges, proof to support the other. He argued on the case of lord Strafford, and declared the proceedings on that case were not at all analogous to the present. In that case, lord Strafford, on the mode of proceeding charge by charge being proposed to him, immediately gave his assent to it. Lord Strafford, he said, thought it was a very just mode of proceeding; it met his approbation; it was the method he wished to adopt, and therefore he coincided with the proposal. But this assent was not to be considered as a precedent in future; what lord Strafford might consider as a proper mode of proceeding, or what might be a proper mode of proceeding in his case, might, in another instance, appear quite the reverse, and Mr. Hastings was not bound to adopt it.

Lord *Derby* observed, that one of the counsel for Mr. Hastings had mentioned lord Orford's case, but mentioned it in that kind of way, as if it had dropped from him unwarily. That case, as far as it went, was directly contrary to the mode of proceeding Mr. Hastings wished to adopt. He made some observations on the delay that would be created by it. If the charges were heard collectively, some of their lordships might in the interim be taken ill, and being deprived of their attendance could therefore only hear a part, perhaps, of the prosecutor's case, and none of the defence, or vice versâ; or, if any of their lordships died, their sons who succeeded them would hear a part only of that trial, on which they were to decide.

Lord *Grantley* said, he never knew in his life a prisoner called upon for his defence to a part of an indictment or infor-

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mation, until he had heard the whole. He challenged the lord Loughborough to give him a single instance in his recollection, where a prisoner was so situated. What, call upon a man for his defence, when he has only heard part of the charges alleged against him! Was ever such a thing heard of? He argued upon lord Strafford's case, and declared there was no comparison between that and the present. Lord Strafford wished for that mode of proceeding; and so far it made for Mr. Hastings: for they did not attempt to compel him to it, but put it as a question.

The *Lord Chancellor* declared himself firmly of opinion with lord Grantley. A deal of nice critical inquiry, he observed, had been made use of to no purpose. He affirmed that the motion of lord Loughborough was futile and absurd. That he believed no man in England understood the English language better than Mr. Fox. That his first proposition was clear and perspicuous, namely, that all the articles should be taken separately, and that the defendant should be required to answer separately to each. But to prevent the possibility of a doubt, he had called upon Mr. Fox, still farther to elucidate his meaning, and the answer was plain and direct. It became their lordships, therefore, to determine, now and for all, and to prevent future appeals. If he were to judge from what had already appeared, occasions would necessarily arise, which would compel their lordships to adjourn from Westminster-hall to their own House, which of itself was rather a tedious duty; therefore they ought not to suffer it unnecessarily. He said he had not heard a single argument in support of the motion of the learned lord. It was the duty of a judge to do justice without any consideration of conveniency, and to do justice according to the laws of England. With respect to the law and usage of parliament, of which he had heard so much, the Chancellor utterly disclaimed all knowledge of such law. It had no existence. In times of barbarism, indeed, when to impeach a man was ruin to him by the strong hand of power, tumult or by faction, the law and usage of parliament were quoted in order to justify the most impetuous or atrocious acts. But in these enlightened days he hoped that no man would be tried but by the law of the land, which was admirably calculated to protect innocence and to punish guilt. In Westminster-hall one of the honourable managers had attempted to make a distinction between the first stage of the impeachment of that great man the earl of Strafford, and the latter proceedings when the House was borne down by violence and by tumult. He declared that the whole proceeding, from its commencement to its conclusion, was in the highest degree violent, unjust, and tyrannical. The managers of the Commons had attacked that great man in language so gross, that it disgraced this country, and was never equalled except in the case of sir Walter Raleigh. A licentious and unprincipled fellow, Pym, attacked that noble lord with all the virulence of party faction and malignity enormous as it was, because the earl of Strafford was accused by them of quitting his party; as if it were not meritorious to serve the state instead of a faction; as if it were a crime to quit a gang of highwaymen. That noble lord once, and but once, forgot himself in entreating the forbearance of his execrable persecutors. But, my lords, if we talk of the law and usage of paliament, and are bound by it, what injustice shall we not commit? If we go back into our history, we find that counsel was not allowed in an impeachment for misdemeanors; but now we sit as a court of justice, bound, as every court ought to be, by the eternal and immutable laws of justice. There was not a single impeachment, during the last century, in which there were not the strongest marks of tyranny, injustice and oppression; and even the impeachment of Sacheverel, in the present century, contained an instance of injustice, which he trusted never would happen again; when the House of Lords determined upon a point of law contrary to the unanimous opinion of the judges. In the present impeachment, he trusted their lordships would not depart from the known established laws of the land. The Commons might impeach, their lordships were to try the cause; and the same rules of evidence, the same attention to the laws, which obtained in the courts below, would, he was confident, be preserved by their lordships. He contended that it was highly improper to compel a person, situated as Mr. Hastings was, to answer one charge without hearing the whole.

The Earl of *Carlisle* agreed with the Chancellor in his conclusions, but thought he spoke strange in some instances.

The Duke of *Norfolk* dissented, and justified Pym and the Commons.

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The House divided on lord Loughborough's motion: Contents, 33: Not-Contents, 88.

Protest against the Mode of Proceeding upon the Impeachmeat of Mr. Hastings.] It was then ordered, that the Commons be informed, that they do proceed to produce all their evidence in support of their impeachment, before the defendant be called upon for his defence.

"Dissentient,

"1. Because we hold it to be primarily essential to the due administration of justice, that they who are to judge, have a full, clear, and distinct knowledge of every part of the question, on which they are ultimately to decide; and in a cause of such magnitude, extent, and variety as the present, where issue is joined on acts done at times and places so distant; and with relation to persons so different, as well as on crimes so discriminate from each other by their nature and tendency, we conceive that such knowledge cannot but with extreme difficulty be obtained, without a separate consideration of the several articles exhibited.

"2. Because we cannot, with equal facility, accuracy, and confidence, apply and compare the evidence adduced, and more especially the arguments urged by the prosecutors on one side, and the defendant on the other, if the whole charge be made one cause, as if the several articles be heard in the nature of separate causes.

"3. Because, admitting it to be a clear and acknowledged principle of justice, that the defendant against a criminal accusation, should be at liberty to make his defence in such form and manner as he shall deem most to his advantage; we are of opinion that such principle is only true so far forth, as the use and operation thereof shall not be extended to defeat the ends of justice, or to create difficulties and delays equivalent to a direct defeat thereof; and because we are of opinion that the proposition made by the managers of the House of Commons, if it had been agreed to, would not have deprived the defendant in this prosecution of the fair and allowable benefit of such principle, taken in its true sense, in as much as it tended only to oblige him to apply his defence specially, and distinctly to each of the distinct and separate articles of the impeachment in the only mode in which the respective merits of the charge and of the defence can be accurately compared and determined, or even retained in the memory, and not to limit or restrain him in the form and manner of constructing, explaining, or establishing such defence.

"4. Because in the case of the earl of Middlesex, and that of the earl of Strafford, and other cases of much less magnitude, extent, and variety, than the present, this House has directed the proceedings to be according to the mode now proposed by the managers on the part of the Commons.

"5. Because, even if no precedent had existed, yet and from the new and distinguishing circumstance of the present case, it would have been the duty of this House to adopt the only mode of proceeding, which, founded on simplicity, can insure perspicuity, and obviate confusion.

6. "Because we conceive, that the accepting the proposal made by the managers, would have been no less consonant to good policy, than to substantial justice, since by possessing the acknowledged right of preserving their articles as so many successive impeachments, the Commons have an undoubted power of compelling this House in future, virtually to adopt that mode which they now recommend, and if ever they should be driven to stand on this extreme right, jealousies must unavoidably ensue between the two Houses, whose harmony is the vital principle of national prosperity; public justice, if not defeated, might be delayed—the innocent might be harassed, and the guilty might escape.

7. "Because, many of the reasons upon which a different mode of conducting this prosecution has been imposed upon the Commons, as alleged in the debate upon this subject, appear to us of a still more dangerous and alarming tendency, than the measure itself, forasmuch as we cannot hear, but with the utmost astonishment and apprehension, that the Supreme Court of Judicature is to be concluded by the instituted rules of the practice of inferior courts. And that the law of parliament, which we have ever considered, as recognized and reverenced by all who respected and understood the laws and the constitution of this country, has neither form, authority, nor even existence; a doctrine which we conceive to strike directly at the root of all parliamentary proceedings by impeachment, and to be equally destructive of the established rights of the Com-

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mons, and of the criminal jurisdiction of the peers, and consequently to tend to the degradation of both Houses of Parliament, to diminish the rigour of public justice, and to subvert the fundamental principles of the constitution. *(Signed)*——Portland, Wentworth, Devonshire, Derby, Bedford, Cardiff, Loughborough, Fitzwilliam, Stamford.

"Dissentient for the first and second reasons only.

Townshend,
Harcourt,
Leicester.

"Dissentient on the first, second, and last reasons.

Manchester."

Debate in the Commons on the East-India Declaratory Bill.] Feb. 25. Mr. *Pitt* rose. He observed that his motion for leave to bring in a bill to explain and amend a clause of the act of 1784, appointing commissioners to superintend and control the management of the affairs of the East-India Company, went to a single point only, and therefore, could not give rise to much discussion. It was generally known, that disputes had for some time subsisted between the Directors of the Company and the Commissioners of the Board of Control with regard to four regiments, which his Majesty's ministers had thought proper to send out to India, as an additional security to the British possessions in that part of the globe. The Directors, some of them at least, had been of opinion, that unless they made a requisition to government for farther military assistance, they had it in their option either to bear, or to refuse to bear, the expense of any additional regiments of his Majesty's army, which might be sent to India. That idea had been much agitated without doors, and the directors had thought proper to consult different counsel upon the subject, who had severally given their opinions; and some of them were so extraordinary, that if they had not been subscribed by the names of respectable gentlemen of the profession, he should scarcely have thought that they were the serious opinions of discerning men. One of these counsel had formerly been a member of that House, and he lamented that he had not still a seat there, since he had much rather, at all times, discuss the opinion of any man to his face than when he was absent. The resolution of sending out four additional regiments for the better protection of our Indian possessions was taken in October last, when ministers had reason to feel some alarm, and to look with more than ordinary anxiety to the safety and preservation of every part of the British dominions. Nor was the design merely taken up as a temporary measure, but with a view to a permanent establishment of his Majesty's troops in India. At that time, no unwillingness to receive the regiments on board the Company's ships and provide for their support in India, had been intimated by the Court of Directors; but, on the contrary, the measure had been considered as a wise one, and the suggestion of it had given general satisfaction. Since, however, the storm which threatened had been dispersed, far different sentiments were entertained, the Act of 1781 had been cited, by which the Company were bound to pay for such of his Majesty's army as had, by their requisition, been sent to India, and the opinions to which he had alluded had been taken. In the present case, two questions arose; 1st. Whether the King had a right to send his troops to any part of his dominions; and, 2d. if he sent them to India, who ought to defray the expense? That his Majesty had an undoubted right, by his royal prerogative, to direct the distribution of his army, no man would dispute. The only question therefore that remained was, whether, if his Majesty, by virtue of his prerogative, thought proper to send four additional regiments to India, the expense of sending them, and their support, ought to be provided for out of the revenues of India, which they protected? On what principle it was, that gentlemen entertained doubts on this point, he was at a loss to imagine, since, in his mind, nothing could be more clear, than that there was no one step that could have been taken previous to passing the act of 1784 by the Court of Directors, touching the military and political concerns of India, and also the collection, management, and application of the revenues of the territorial possessions, that the commissioners of the Board of Control had not now a right to take by virtue of the powers and authorities vested in them by the Act of 1784. He repeated that he conceived the meaning of the Act of 1784, to be sufficiently obvious: since, however doubts had been entertained by others, and the opinions of counsel confirming those doubts had been taken, and had gone abroad into the world, he thought it better to call upon parlia-

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ment to remove those doubts by a bill. He explained that the four regiments might, if the Company consented to take them on board their ships, be sent out to India at a very inconsiderable expense, and without any inconvenience to the Company's commercial concerns; whereas if transports must be specially provided, the expense would prove enormous. He meant therefore, by the bill, to oblige the company to pay that expense out of their Indian revenues, as had already been intimated to them by the Board of Control. He concluded with moving "That leave be given to bring in a bill for removing any doubt respecting the power of the commissioners for the affairs of India, to direct that the expense of raising, transporting, and maintaining such troops as may be judged necessary for the security of the British territories and possessions in the East Indies, should be defrayed out of the revenues arising from the said territories and possessions."

Mr. *Baring* hoped the House would be cautious of carrying a bill of such magnitude as that in question, since there would be an end to the East-India Company and all their property, if such a bill passed. The power of the King himself was limited; and resistance to any attempt to obtain unlimited and unrestrained power was both constitutional and legal. He declared, that when the Bill of 1784 was in agitation, it had not been intimated to the directors that the Bill gave any such power to the commissioners of control as was now contended for. If they had so understood it, they would not have given their support to a bill that tended to annihilate the Company, and deprive them of all their rights and powers. He went into a discussion of the impolicy of sending out new regiments to India, and said, that they would soon be (like the rest of his Majesty's forces already there) skeletons of regiments. He repeated his wish that the Bill might not be hurried.

Mr. *Fox* declared, that he had no scruple to affirm, that he was ready to give his negative even to the motion for leave to bring in the Bill proposed, on the principle that sufficient ground had not been laid before the House to prove the necessity for any such bill. The right hon. gentleman well knew that the opinions of counsel upon an existing act of parliament was not a fit ground for the introduction of a declaratory bill. If such opinions did form a fit ground for any such bill, there would be no end to passing declaratory laws, because as counsel generally differed in their opinion, there was not an act on the statute book as to the construction of which different opinions would not be given. Declaratory act upon declaratory act would, therefore, be passed and multiplied *ad infinitum*. Where the judges had expressed a doubt of any law from the bench, and a judicial opinion had been delivered in court of the construction of a statute, that was held to be a fit ground to introduce a bill to explain and amend such statute, but no other ground ought to be taken. Mr. Fox farther observed, that the Chancellor of the Exchequer had himself declared, that the Bill of 1784 was sufficiently explicit to render any declaratory bill unnecessary, and yet he had followed up that declaration with moving to bring in the very sort of bill which he had given it as his opinion was unnecessary. This was treating the opinion of the right hon. gentleman's two learned friends rather cavalierly, because it was to act upon the opinion of those who had professed to entertain doubts of the construction of the Bill of 1784, and to pass by the opinions of the Attorney and Solicitor General against there being any ground for doubt, as opinions of little importance. He stated the difference which he conceived to exist between the Bill of 1784, as now explained by the Chancellor of the Exchequer, and the India Bill which he himself had brought into the House, and about which so much had been said within those walls. By his Bill, he meant to suspend for a time the powers of the Court of Directors, and to lodge them in certain commissioners nominated by parliament, and not removable at the pleasure of the crown; except in consequence of an address from either House of Parliament. But the India Bill of the right hon. gentleman empowered his Majesty to appoint a board of superintendency and control removable at his pleasure.—Mr. Fox remarked, that the India Bill which he had the honour to propose was so offensive to the right hon. gentleman, that he had exhausted upon it every epithet of obloquy which the English language could afford, describing it as a violation of chartered rights, and a most illegal and unwarrantable assumption of all the powers of the directors. For the first time, it had that day been ventured to be publicly avowed, that the right hon. gentleman's India Bill put the commissioners of the Board of Control in pos-

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session of all the powers of directing the military and political concerns of India, and of collecting, managing, and applying of all the revenues of India, which the Court of Directors enjoyed previous to the passing of the Act of 1784. The right hon. gentleman's Bill, as it was now explained, vested the privileges of the East-India Company, with respect to the management of their own affairs, for ever in the immediate servants of the Crown, who were removable at pleasure. The right hon. gentleman had declared the authority of the Board of Control to extend to the application of every shilling of the Company's revenues, but it left the directors in possession of—what? The management and direction of the commerce—the direction of that which could not exist, but at the pleasure of the Board of Control! If the Board should think proper to apply the whole revenues of India to the maintenance of troops, or to any other purpose, what would remain for making an investment? Nothing. The directors were, therefore, left in possession of power to manage where there might be nothing to manage—to direct a commerce without the means of supporting it. If this was not annihilating every right of the Company, he knew not what was annihilation. But such appeared to be the right hon. gentleman's regard and veneration for chartered rights at the time of passing the Bill, that the bare mention of violating or infringing them was not to be endured. He appealed to the recollection of every member present, whether in the present or the former parliament, such an explanation of the meaning and extent of the right hon. gentleman's Bill had ever been suggested by those who supported it, as he had now himself given? In conclusion, Mr. Fox recurred to his former position, that the motion ought to be negatived, because no fit ground of the necessity of a declaratory bill had been mentioned, even distantly, during the whole course of the debate.

Mr. *Dundas* said, that under the Bill of of 1784, the Board of Control were warranted in applying the revenues of the Company's territorial acquisitions, to the expense of transporting and maintaining the four regiments, which Government thought it necessary to send out to India. And so fully were they authorized to do this, that if it should appear to ministers necessary for the security of those territorial possessions, they had the power to apply the whole of the revenues of India to that purpose, without leaving the Company a sixpence for their investments. With regard to the doubts which were suggested, it ought to be recollected, that several lawyers had given their opinions upon the subject, and that the names of Bearcroft, Erskine, and Mansfield, appeared subscribed to them; and, therefore, the best way to meet those doubts was by the authority of a special act of parliament. Would gentlemen have government proceed by an action at law upon such a question? If that was to be the course on occasions of that kind, India might be lost before the law-suit was determined.

Colonel *Barré* said, that he saw patronage at the bottom of the business. He entered into a discussion of the modern mode of increasing the army, and condemned it as unwise and extravagant. He reminded the House that there were above 1800 officers living in a very distressed situation in India, who had been reduced at the peace. This country ought to feel for those gentlemen, since she owed them much. He admitted that those officers who commanded the four regiments were deserving officers and entitled to preferment. One of them had served in America during two wars; but it was not merely because officers had great merit, that any measure of unnecessary expense to the country ought to be adopted. This was a reforming age, and our ministry professed to act upon economical principles. In some essential instances they had great economy. It would not, therefore, become them to adopt any measure that was not governed by economical principles. There appeared to him to have been a struggle for patronage between Leadenhall-street and the Board of Control. It was decided that Leadenhall-street was to have some of the patronage. Not quite a moiety. He feared the sending out the four regiments would lead to infinite jealousy and confusion in India. He understood that the junior officers were those who had been reduced at the end of the war. They would naturally be appointed to the four regiments, and having king's commissions, would necessarily rank above those who being in the India Company's troops, had formerly commanded them. He reasoned upon the inconvenience resulting from having the sword in two hands in India, and said, he knew not whether it would not

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be wise by degrees to embrace the whole of the Company's army, and make it royal.

Leave was given to bring in the Bill. It was presented on the 27th, and read a first time.

Feb. 29. A Petition from the East India Company was presented against the Bill, setting forth, "That the said Bill, if carried into a law, will be subversive of the Petitioners rights, and highly injurious to their interests: and therefore praying, that they may be heard by their counsel against the said Bill, and may be relieved in the premises as to the House shall seem meet." The petitioners were ordered to be heard by their counsel against the Bill.

March 3. The Bill being read a second time, the counsel against the Bill were ordered to be called in. Mr. Erskine and Mr. Rous having come to the bar,

Mr. *Erskine* was heard against the Bill. He began, by stating himself to be counsel for the East-India Company, and said, that though the question to be discussed by him, when well understood, and placed in a clear point of view, was easy to be comprehended, and capable of being soon decided as it ought to be, yet as it would require much reasoning and much argument to bring it to that point in which it undoubtedly must be placed, in order that its merits might appear obviously and explicitly, he should be under the necessity of calling for a considerable portion of the patience and attention of the House, since it would prove impossible for him to do justice to his clients, without going much at length into the nature and grounds of their case. He expatiated on the humility of his present situation, standing as a counsel at the bar of that House, of which he had formerly had the honour to be a member, and treated of the respect that was due from a man of his profession addressing an assembly of that elevated and important nature. He said, he was well aware that harangues from counsel at their bar were not the specimens of oratory in which that House took the greatest pleasure, but that they rather submitted to them, from the consideration, that it was their indispensable duty to receive them by way of physic, as it were, for the benefit of the constitution. He promised to make his dose as palatable as the nature of the patients' case would admit. After an exordium to this purport, he took notice of the different opinions annexed to the printed case, which had been submitted to counsel, and observed, that he had heard that his opinion had been referred to in that House particularly, and that it had been lamented, that he was not present to account for his opinion. It now happened that he was present, but under peculiar circumstances. He could defend an opinion that he was ready to maintain, but he should not have an opportunity to reply. He adverted to the opinion of an honourable and learned member, whom he highly respected, but whom it would be irregular in him to name; he could, however, by a side-wind describe him, as the opinion to which he adverted was signed "John Scott, Lincoln's-inn." He entered into a discussion of the grounds of that opinion, and observed that the counsel himself had showed in his answer to the case (as others had also before), that he had only had an opportunity of merely referring to the Act of Parliament. He had, Mr. Erskine said, done much more himself; he had been able to examine all the charters and records, and had other gentlemen of his profession enjoyed the power of doing the same, he was persuaded their opinions would have been of a different complexion from that which now characterized them.—After a good deal of close argument on the several opinions annexed to the printed papers, and a compliment passed upon Mr. Serjeant Adair, the Recorder of London, Mr. Erskine proceeded to animadvert on the authors and promoters of the two different East-India Bills of the session of 1783, 1784, observing that calumny had deemed the authors and promoters of the former the violaters of charters, the enemies to the rights, privileges, and property of the East-India Company, the ambitious lusters after despotic power, and the daring usurpers of a degree of patronage, influence, and greatness, wholly unknown to the constitution; while, on the other hand, the authors and promoters of the East-India Bill that passed into a law, had assumed the characters of saviours of the chartered rights of the Company, and of standing forward as their most zealous protectors and defenders. In that light, he considered them as fit to be regarded, and as such, in what he should have the honour to offer he meant to treat them. He knew that it would be remembered, that he had taken an active part in the

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conduct of one of the India Bills of the session of 1783, 1784, through the House, and that it would be deemed inconsistent in him to stand up the avowed champion of the chartered rights of the Company, after having been the supporter of a former measure, the character of which had been stated to be a daring attempt to violate those chartered rights. Fortunately, however, he was not exposed to that inconsistency, and could easily reconcile the argument he should then think it his duty to urge, with the arguments which he had held on a former occasion.—After more preliminary observation, he went into a discussion of the nature and tendency of the Declaratory Bill, which they were about to pass, found fault with the phrase, 'was, and now is,' as redundant and absurd, and proceeded to establish, that there was no necessity for any such declaratory bill, that the Bill of 1784 stood in need of no declaratory bill to explain it, and that if the power now contended for by the Board of Control, was a power necessary for state purposes for them to hold, it ought to be given openly and fairly by an enacting, and not by a declaratory bill. He explained the distinction between enacting and declaratory bills, and maintained that there were only two grounds on which the legislature ever passed declaratory bills, the one, where the wording of an act of Parliament was so ambiguous that it stood in need of explanation; the other, where by clashing judgments of courts upon an existing statute, its true sense and construction had become so obscure, that it became the legislature, by the authority of a declaratory bill, to pronounce and propound its own meaning; neither of which was, he asserted, the case at present.—In order to show that the East-India Company were legally seized of rights which would be materially injured, and, in fact, destroyed, if the Declaratory Bill then before the House passed, Mr. Erskine stated the terms and tenure of the different charters granted by different kings, all of which had been recognized and confirmed by various acts of parliament. He began with mentioning the charter of queen Elizabeth, and that granted by James 2, the latter of which vested the island of Bombay, with all other territories in India then acquired, or that hereafter should be acquired by the East-India Company, either by force of arms, or by virtue of any cession or grant either of the natives or other foreign princes, to the East-India Company, to be holden by them in what the lawyers term free soccage for ever. He referred to the various other charters granted by Charles 2, and his successors, tracing them down to the year 1765, and proving that the East-India Company had originally given a valuable consideration to the Crown for their possessions and privileges in India. He said that before the obtainment of the Dewanee in 1765, it had not entered into the head of man, that the public had any right to make a claim upon the territorial possessions of the Company in India. That then, for the first time the public claim had been brought forward, and as it was a perilous question to both parties, the discussion had been waved, and certain conditions of suffering it to remain undiscussed were negociated and agreed on between the public on the one part, and the Company on the other. Those conditions had been ratified by an act of the legislature. The compact then made, had, with occasional variations, adapted to the occasional events that had taken place, been renewed, from time to time, and the last time it was renewed was in the 21st of the present King. The Company now held their rights as possessors of their territorial acquisitions and revenues thence arising, on the faith of the Act of the 21st of his Majesty; and unless it was to be contended that that Act had been repealed by the Act of the 24th, the East-India Bill of 1784, the proposed Declaratory Bill could not be permitted to pass without the grossest injustice to the Company, and without a direct breach of parliamentary faith. He urged arguments to show, that the Act of the 21st could not be repealed by implication, or by a side-wind, but that it could only be repealed by an express, plain, and direct enacting bill to repeal it. He maintained, that while the Act of the 21st of the King remained in force, it could not be proved that the Company were legally liable to be compelled to pay for the recruiting, transporting, and maintaining of any other of his Majesty's forces sent to India, excepting such only as were at their requisition sent there. His Majesty, by virtue of his prerogative, had an undoubted right to send his troops to India, or any where else that he thought proper; but then, he must maintain them. He put the case of government thinking it necessary to send troops to any man's private estate in Cornwall, or any other county,

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where they might have reason to expect an enemy was likely to land. Would it be contended, that Government had a right to maintain them and defray the expense of their march to Cornwall, out of the revenues of that man on whose estate they happened to be billetted? Most unquestionably not. The case was the same with respect to sending out troops to India, unless at the Company's requisition. After much reasoning, Mr. Erskine became suddenly indisposed, and obliged to ask the indulgence of the House to retire.

Mr. *Rous* next addressed the Speaker, and observed that he flattered himself he should be able to induce the House either to confess that they had violated an engagement deliberately made by contract, or to abandon the Bill. He declared he was far from suspecting any man, much less the legislature, of being capable of so base an act. The imputation he considered as a foul calumny, and as such he should treat it. Mr. Rous then went over the ground of the various charters that had been granted, and of the cessions made by different Eastern princes. He stated the nature of the agreement between the Company and the Crown by the 21st of his Majesty, and said that Act was so clear and explicit, that it was impossible to overturn it. He urged as a strong proof, that the Board of Control themselves had never understood that the compact between the public and the Company, as settled and sanctioned by the Act of the 21st was at an end; that they had acted under it again and again, for two years and more, after the Bill of 1784, which appointed the board of commissioners and gave them their power, had passed. He dwelt on this with great energy, and in referring to a particular transaction that had taken place between the Board of Commissioners in 1786, and the Court of Directors, whilst commenting upon it, Mr. Dundas said, "read, read," Mr. Rous, in reply said, "do you read, I am to plead." Upon Mr. Dundas smiling at this, and seeming by his gesture not to admit the comment of Mr. Rous, the latter said, "I see, though the fact will not be denied me, it is to be cavilled at"——

Mr. *Pitt* immediately moved, "That the counsel be desired to withdraw." This having been complied with, he appealed to the House on the impropriety of such a liberty having been taken with a member of that House by a counsel at the bar. He said, the fact was, the counsel had been commenting on a printed paper which he held in his hand, and a right hon. friend of his, who, from his situation, might well be supposed to know the contents of the paper, had desired that instead of his comments, which might mislead the House, the counsel would read the paper to the House, on which the counsel had thought proper to refuse to read it, and upon his right hon. friend's not appearing to admit the counsel's comment, and the construction that he chose to put upon the paper, the counsel had thought proper to say, "He saw it would not be denied him, but it would be cavilled at." Such a procedure was so extremely irregular, that he thought it necessary to take notice of it, and having done so, he wished it to go no farther, but that the counsel might be called in again and told to go on.

Mr. *Fox* said, he did not mean to defend the expression in question, it was certainly improper; but, the right hon. gentleman had not to learn, that perhaps no species of irregularity was sooner apt to produce reciprocal irregularity, than irregular interruption. The counsel had been irregularly interrupted, for certainly the words 'read, read,' were what he ought not to have heard. One irregularity naturally led to another, and in the warmth of sudden speaking, a hasty expression might drop, which was not proper, and which, upon reflection, the counsel himself would not have used.

Mr. *Pitt* observed, that although it was strictly speaking, irregular in his right hon. friend to say 'read, read,' yet it was a species of irregularity very frequently practised, and it often saved time. When any man was alluding to a written paper, in fairness he ought to read the paper, in order to enable the House to judge of the application and justice of his comments. He, however, had only risen to notice the improper reply of the counsel, and begged he might be called in again.

Mr. *Rous* having been again called to the bar, began to apologize for any improper expression that might inadvertently have escaped him, but was desired from the chair to pursue his argument. He accordingly resumed it, and had argued some time upon the nature of a declaratory law, when he was called upon by the Speaker, who desired to know how, what he was then stating, would, in his opinion, bear upon the question then before the

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House, and stated in the Company's Petition?

Mr. *Fox* showed the relation it bore to the subject, by its reference to the nature of a declaratory law.

Mr. *Pitt* agreed, that the petitioners having been permitted to be heard by their counsel, ought to have the full advantage of every argument that their counsel thought applicable to their case.

Mr. *Rous* again resumed his reasoning, and contended that what he was advancing was immediately applicable to the case in point. He maintained, that the sending out the four regiments would necessarily lead to the most mischievous consequences to the Company, as two of them were to go to Bombay. That measure must, he said, excite the jealousy of other nations. He stated the nature of the Bombay establishment, declaring it was a losing presidency to the amount of 300,000*l.* per annum. He asked, where was it to be supplied from, if the establishment were to be increased? If from Bengal, in a few years Bengal would be ruined. It could not be supplied from home. He assigned his reasons for thinking that it would lead to mischievous consequences, by reminding the House that Bombay was valuable only as a mart for our European goods, a dock and a port for our shipping, &c. But if it was attempted to gain acquisitions by conquest on the West side of India, the native princes would unite against us, as they had done before, and our successes would ultimately prove fatal. On the East side of India we had the province of Bengal, the northern Circars, the power of the sword in the Nabob of Arcot's dominions, and a degree of strength so formidable that all India could not either injure or weaken it. Why then endanger such powers? Having closed this argument, Mr. Rous returned to the discussion of the right of the Board of Control, to send out the regiments in the manner expressed by the Declaratory Bill. He said, it appeared to him to be a sort of legerdemain argument, a kind of juggle, or a game of hocus pocus, as it were, by which it was justified. They had by their own acts admitted, that they could not send them out as a Board of Control, but they could as his Majesty's ministers. Such a system of defence outraged all reason and common sense. After a variety of arguments against the Bill, Mr. Rous concluded with repeating, that the House would be compelled either to admit that they had violated an engagement solemnly made and ratified by an Act of Parliament, then existing, and which was unrepealed and in full force, or they must abandon the Bill.

Mr. *Erskine* came again to the bar, and having apologized for his illness, said, he returned like a wounded soldier to the charge. He then, with great adroitness, brought the House back to a recollection of the precise point when he had been under the necessity of retiring through sudden indisposition. He recapitulated, that he had gone through the history of the different charters; that he had explained the conditions of the bargain or compact made between the Company and the public; that he had stated, that if the Declaratory Bill passed, the public would be endangered, as well as the Company's dividend of 8 per cent., and had shown the true nature of a Declaratory Bill, which might be a bill containing the negative of the affirmative of the former bill it referred to, or *vice versâ*, the affirmative of the negative of that bill. It could not be an affirmative bill, as there could not be a virtual repeal. Mr. Erskine contended, that if the Act of the 24th gave the Board of Control the great power now to be assumed, it would have stated thus much, and not have consisted of a miserable detail of petty powers, relative to the making up of dispatches. He added a great deal of animadversion and sarcasm on the East-India Bill of 1784, and mixed with it much warm eulogium upon that of Mr. Fox. He termed the one an imposture, as he had formerly stated it to be from his place, when a member of the House. [Occasionally the House expressed their disapprobation at Mr. Erskine's sarcasms, and the Speaker once interrupted him, when he had said, the House ought not, at that late hour, to enter upon the discussion of so important a subject. The Speaker told him, that it did not become a counsel at their bar to hint when they ought to adjourn; and that the House would govern its own proceedings as it thought proper. Mr. Erskine apologised, and quitted the topic.] Before he concluded, he took occasion to attack the Board of Control, as a Board that had assumed far greater powers than the legislature had originally intended to vest it with, and declared, if he had been guilty of any irregularity, it was owing to his not feeling all the respect which was due to the House, and which he was used to feel

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for it, before it was shorne of some of its lustre and dignity, by the extraordinary powers possessed and exercised by that Board.

As soon as Mr. Erskine had finished, the Speaker asked Mr. Rous, if he wished to produce any papers as evidence of the facts which, in the course of his speech, he had said he would prove? and, if so, desired him to open to the House with what view he meant to bring such evidence. Mr. Rous answered, that he wished to produce some papers as evidence of certain acts of the Board of Treasury, and of the Board of Control, to prove that since the passing of the Bill of 1784, both Boards had acted upon the Bill of the 21st of the King, which would evince that they themselves had considered it as unrepealed, and in full force.

Mr. *Pitt* desired the counsel might withdraw. This being complied with, he expressed his wishes, that the House would proceed in the manner that should appear the most regular. He trusted that papers of the nature just stated by the counsel, were not admissible as evidence, because it seemed to him in the highest degree irregular to suffer papers to prove how a few individuals had acted upon an Act of Parliament not referred to by the present Declaratory Bill, to be produced in evidence, in order that counsel might, by an inference from those papers, deduce an argument that another and subsequent Act of Parliament needed no explanation. With regard to any use that counsel or any other gentlemen might wish to make of the fact of the Board of Treasury, or the Board of Control having acted upon the 21st of the King since the Act of the 24th had passed, he was ready to admit it in the fullest possible manner. The Act of the 21st not only was, but actually, and at the present moment, continued in full force, and any argument that he should have to state in defence of the present Bill, he certainly should not rest on the denial of the existence of the Act of the 21st. The papers he wished nevertheless to have upon the table, but they might be brought there regularly by a motion for their production.

Mr. *Fox* conceived, it would be difficult to resort to any precedent in the present case, because he verily believed there never had been a precedent for such a Declaratory Bill, nor did he imagine such another Declaratory Bill would be ever introduced into Parliament. He professed himself totally ignorant of the contents of the papers in question; he had not seen them, but it did appear to him material to have them, since he understood they would prove how the members of the Board of Treasury and of the Board of Control, who were to act under the Act of 1784, and were bound to understand it, did understand it. As it had not been, nor could well be, stated as a reason for introducing such a Declaratory Bill as the present, that the words of the Bill of 1784 were ambiguous and needed explanation, or that it had been judicially declared, or by any tribunal whatever, that its construction was doubtful, it became desirable that the next best evidence should be looked to, and that as doubts were, in the preamble of the Declaratory Bill, stated to have been entertained, it should be inquired who had entertained those doubts, what had been the sentiments of the Board of Control upon the subject, and what their conduct?

Mr. *Dundas* observed, that it was extremely easy to discover the anxiety of gentlemen on the other side to get at papers likely to furnish them with any arguments *ad hominem*. They were perfectly welcome to use as much of that sort of argument as they thought proper; he cared not how much. But why ought the papers to be irregularly produced, when they might be brought before the House regularly?

After some further conversation, the House divided on the question, "That the counsel for the petitioners be at liberty to produce the evidence proposed; Yeas, 118; Noes, 242. So it passed in the negative. On the motion of Mr. Pitt, the papers were then ordered to be laid on the table.

March 5. The order of the day being read for going into a Committee on the East-India Declaratory Bill, and a motion being made, that the speaker do now leave the chair,

Sir *Grey Cooper* said, that he must resist it, because, in his opinion, the Bill ought not to be suffered to proceed one step farther, as in its principle, he conceived it was liable to many weighty objections and tended to many dangerous consequences. He would not stop to argue whether what was proposed to be declared to be law ought to be law; or whether it would or would not be for the advantage of the state, that the commis-

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sioners for India, ought to have the high powers with which they assume the right of being invested. He would confine his argument to this single point: "that it is not the law at present, and that the board has not the power which it claims and demands;" and the House cannot declare that they are invested with those powers *without* the usurpation of judicial, instead of *legislative* authority. The decision of *this* must depend upon a minute examination of the Act of the 24th of Geo. 3, and by comparing and collating the separate clauses of it upon fair and legal rules of construction. The learned counsel at the bar laid down with great force and clearness, some of the maxims of law by which the interpretations of statutes were governed. There were some which they did not refer to, and which seemed to him to be important in the consideration of this question. It was a rule of law, laid down by great authority, that "constitutio nova futuris formam imponere debet, non præteritis." Another rule and maxim, which appeared to bear peculiarly on *this Act* of Parliament, was the principle "that acts which give new powers and new remedies, shall not have liberal construction, but be pursued strictly." But he conceived that, in legal understanding, and in common sense, the most natural exposition of a statute was, to explain and illustrate one part of a statute by another part of the same statute. According to these rules, he proposed to examine the new constitution which this act established, and to endeavour, by comparing and commenting upon the different parts and clauses of it, to justify the construction which he contended for, and which was, that the Board of Commissioners was not, and is not, by the said Act fully empowered to order and direct, that all expenses incurred, or to be incurred hereafter, for raising, transporting, and maintaining such forces as shall be sent to India, for the security of the said territories and possessions, shall be paid, defrayed, and borne, out of the revenues arrising from the said territories and possessions. The title of this singular Bill is for removing any doubt respecting the exercise of this enormous and dangerous power. The Declaratory Act states, that by the said Act of the 24th Geo. 3, the Board of Commissioners is invested with the superintendence and control over all the territorial possessions in the East Indies, and over all the affairs of the East India Company, trading thereto, in the manner in the said Act directed: and is likewise authorized and empowered from time to time, to superintend, direct, and control, all acts, operations, and concerns, which in any wise relate to the civil or military government or revenues of the said possessions, in the manner in the said Act directed. They are only the recitals of the drawer of the Act *magna & præclara minentis*. The question must, therefore, depend upon the manner in which it is directed, that those powers shall be exercised. The next clause is the great hinge upon which the whole Declaratory Act turns: "And whereas the Court of Directors of the said Company is required by the said Act to pay due obedience to, and to be governed and bound by such orders and directions as the said Court shall from time to time receive, from the said Board, touching the civil and military government and revenues of the said possessions." Would not any person who reads this clause, and the opinion of some of the learned counsel upon it, suppose that this was a substantive, independent, unqualified power given to the Board of Control? He desired that the eleventh section of the Act might be read; which being done, sir Grey continued, and said: The preamble to this clause is of the greatest weight and importance to the right and legal understanding of the import and extent of the words by which this power is given, "in order that the said Board may be duly informed of all the transactions of the said company, in respect to the management of their concerns in the Indies." This word, management, deserves particular attention; it is a key to the true interpretation of the ambiguous words, which come in with a bold sweep at the close of the provision which depends upon, and is to be governed by this important preamble. The members of the Board are to have access to all the papers of the Company; "the Court of Directors shall deliver to the Board copies of all minutes, resolutions, and proceedings of the Court of Proprietors or Directors so far as the same shall relate to the civil or military government, or revenues of the territorial possessions in the East Indies; and also copies of all dispatches which they shall receive from their servants in India; and also copies of all letters, orders, and instructions proposed to be sent or dispatched to any of their servants." Then follow the operative words, which, it is assumed, invest the commissioners

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with the high powers, and bind the Directors to the absolute submission, which this Bill declares to be the law: "and the directors of the said Company shall, and are hereby required to pay obedience to such orders and directions as they shall receive from the said Board relative to the said government and revenues." This is part of the clause introduced by the preamble which has been stated and observed upon.—He next contended, that if they construed this part of the clause as annexed to, and bearing relation to the preamble, and to the former part of the clause, it could only give to the commissioners superintendence, direction, and control of and over the civil and military government and revenues, so far as to have the power of approving or disapproving the orders and letters, or altering, varying, or recasting those letters and orders proposed to be sent and dispatched to the servants in India touching those matters. The subsequent clause explains this to be the meaning of the words which were so much relied on. That within fourteen days after the receipt of the letters or orders last mentioned, the commissioners shall return them to the directors, either with their approbation, or their reasons for disapproving and amending them. And the directors are bound to pay absolute obedience to such orders so amended or altered. The next clause is also very material. If the directors shall within fourteen days after requisition made, neglect to transmit to the said Board their intended dispatches, "it shall and may be lawful for the said commissioners to prepare and send to the directors any orders or instructions to any of their governments, concerning the civil or military government of the Britith territories in the East Indies. And the said directors are hereby required to transmit dispatches in the usual form, pursuant to the tenour of such orders and instructions so transmitted to them, unless on representation made by the said directors to the said Board, touching such orders and directions, the said Board shall direct any alteration to be made in the same, to which directions the said Court of Directors shall, in such case, be bound to conform." He admitted that by subsequent clauses, in matters requiring secrecy, touching the levying of war or making of peace, or treating or negociating with any of the native princes of India, the Board are empowered to originate dispatches to the presidences in India through the committee of secrecy. Why, if the Board is invested with the whole superintendency and control, by word, at the end of the 11th clause, and if the directors are bound to implicit obedience in all cases, why is it made lawful for them to send orders and instructions to their servants in India, only in certain specific cases, and under certain specific conditions? The true construction, therefore, is, that by the whole tenour of these clauses, no other powers are given to the Board than the superintendency and control over the transactions of the Company, in the management of their affairs in India, and their orders and instructions to their servants in India, touching the management of all their affairs, except their commercial concerns. The management is left in the Company; the office and functions of the Board are to be the guardians and trustees of the Company, and to advise them in the conduct of their affairs, and to protect them against their own rash and improvident acts.—He was clearly of opinion, that the 21st of Geo. 3, upon the ground of which all the rights and interests of the Company stand under certain conditions for a limited time, is a subsisting law unrepealed by any of the provisions of the 24th, except in the parts which are specifically repealed by the 30th section of that Act, and which partial repeal, by necessary implication, confirms all the other parts of that Act. This Act of the 21st was a solemn compact between the Company and Parliament, for a valuable consideration, and no part of such a compact can be repealed or broken, but by express words founded on previous consent. The part of the agreement touching the stipulated sum to be paid by the Company for regiments to be sent to India on the requisition of the Company cannot exist. If this declaratory law passes, they are absolutely incompatible. If this Bill passes, the condition of requisition is merged and extinguished.—But there is a far more important question remaining, whether after this Bill shall have passed, the commissioners can act under the law as declared in this Bill, without a breach in the constitution? The raising and keeping a standing army within the kingdom in time of peace, is declared by the Bill of Rights to be unlawful by the words, "within this kingdom in time of peace." It was contended that this decla-

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ration did not extend to the raising and keeping an army out of the kingdom in any of the dominions of the Crown. But by the 12th of king William, the principle of this declaration was carried to Ireland, and the number of standing forces on that establishment, restrained and limited to 12,000; that is, the parliament and crown ministers could not without the consent of the parliament of Great Britain, augment that army. There was an Act in the year 1768 for allowing the augmentation of that army, from 12,000 to 15,000 men. Ireland has now a Mutiny Bill of its own, and its situation, with respect to this country, is considerably altered, but the principle remains the same. He observed that in the plantation estimates, the number of the troops were not voted, but the money for their raising and maintaining was granted. Parliament was not afraid to trust the ministers of the Crown with keeping a standing army beyond the number which could be raised and subsisted by the money voted for that service. They knew that the crown had no revenue in the plantations; but the great ground of jealousy which brought about the 12th of king William was, that there was in Ireland a revenue to pay such troops as the king, by his unlimited prerogative, might raise, and they limited the number for their own preservation. There appeared to be the same ground of jealousy in the present case; there was a revenue at the disposal of the king's ministers and the Board, for raising and paying an army, without consent of Parliament. He admitted that an estimate of the establishment of those regiments had been laid before the House, and referred to the committee of supply, but this was merely *pro formâ*, as the expense was to be defrayed and payed in India. And although the number of the troops to be raised and kept was not as yet limited by act of Parliament, as in Ireland, he was clearly of opinion, that the power assumed to be vested in the commissioners by this declaration, respecting the forces to be sent to India, without the express consent of Parliament, was a dangerous departure from the principles of the constitution.—There is another objection to this Bill, of a very serious nature, as a pernicious precedent of legislation; for, there is no legal ground or basis for the doubt which is raised in the preamble. None but the clashing and contradictory opinions of lawyers, suddenly given upon cases imperfectly drawn. This precedent may be quoted and used for the worst purposes. A minister has nothing to do but to propose and bring in a bill for granting new powers, in ambiguous words, under restraints indistinctly designed, with clauses that have a double aspect. He has nothing to do but to introduce this bill with declarations of self-denying forbearance of all patronage, professing a sacred regard for chartered rights, with plans for economy and retrenchments in the exercise of establishments; with expressions of extreme anxiety to prevent the injuries which meritorious officers may suffer by supercession. All the alarm and unpopularity of a strong and perhaps odious measure, is taken off by this affected moderation; and when higher powers are assumed than those who are the objects of them ever supposed they were subject to, and when resistance is made to the exercise of those powers, then the proposer of the original Bill sweeps away all objections and doubts, by the high, overruling stretch of judicial authority, and declares that what he contends for was and is the law of the land. By such pretences, and by such acts, all the most dangerous powers of the officers of the Crown may be enlarged and extended. The House should, therefore, pause and deliberate before it gives its consent to such a Bill, and establishes such a precedent.

Mr. *John Scott* professed himself a friend to the Bill, although he declared he was not so wedded to his opinion, as not to be open to conviction, should the arguments urged in the course of the debate amount in his mind to a rational proof that the opinion with which he had entered the House was delusive and unfounded. He began with apologizing for his standing forward on a subject of so much importance, but reminded the House of the extraordinary manner in which he had been called upon by the learned counsel at the bar, that had made it possibly a matter of expectation that he should say something by way of accounting for his own conduct. Reasonable, however, as that expectation was, he should not have gratified it, had he not been persuaded, that it was not a political but a legal question that the House had that day to discuss and determine. That being the case, and however little entitled he might be to lay claim to

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any great share of understanding, it would not be denied him the right of standing upon his integrity, and uniformly acting upon what he conscientiously considered to be a sense of duty. He had professed so to act, when he first took the liberty of expressing his sentiments in that House, and no man should ever find him swerving from that rule. With regard to the Bill under consideration, it was expressly a declaratory bill; the only question, therefore, for every man present to ask himself was, did it appear upon examination to convey a sound and true exposition of that act of parliament, which it professed to expound? If any gentleman thought it affixed a conclusion which the Act of 1784 would not bear out, that gentleman, he was free to say, ought not to vote for the Bill in any stage. They had heard a great deal from the petitioners against the Bill, by their counsel at the bar, of the principle of defining what was, and what was not a declaratory bill, as laid down by my lord Coke, Mr. Justice Blackstone, and a great variety of other learned authorities. The principles so stated, had been sound principles of construction of declaratory bills, but from the general tenor of what the petitioners had instructed their learned counsel to say, it appeared as if they had laid down excellent principles, merely for the purpose of abandoning them as soon as they were stated. Among other observations, it had been said, that the House then desired to pass a declaratory law, were called upon to exercise a judicial function. The fact was so undoubtedly. When parliament pronounced and declared the meaning and construction of laws already in existence, it acted in a judicial capacity; a capacity in which, as it had been truly contended, parliament ought not to act, excepting only where the necessity of the case was unquestioned and where the inconvenience to be remedied was of sufficient magnitude to justify so extraordinary an interposition.—Much had been said on the present occasion upon the subject of lawyers' opinions, and it had been stated, that the difference of opinion of men of his profession did not form a fit ground for parliament to proceed upon, and to pass a declaratory law. He was ready to admit, that the caution was necessary, and that it was not proper for parliament to pass a declaratory law, merely because lawyers differed in opinion about the construction of an existing act of parliament. It had also been urged, that nothing short of an obvious ambiguity of phrase in an act of parliament, or some clashing judicial decisions of the courts, did form a fit ground for parliament to pass a declaratory law. That an obvious ambiguity of the wording of an act of parliament might call for and justify a declaratory law, was certain; but he saw no reason, where doubts that led to serious inconveniencies, and inconveniencies materially affecting the public had existed, that parliament should wait till two clashing judicial decisions should have taken place. In that case one of the men, upon whom one of the constructions had operated, must go down with the injury and with the additional mortification of afterwards knowing that the law was with him at the time; for, indeed, great injury might arise before two judicial decisions could be obtained. He declared, that in his mind, the declaratory bill upon the table was liable to no one of the various objections stated against it at the bar, and elsewhere. It had been said, that it was a dangerous precedent, and might affect the constitution, inasmuch as under the authority of such a precedent the king might keep up a standing army in his foreign dominions, without the sanction and consent of parliament. Such an argument was so absurd, that he had been ashamed at having heard it urged as a serious objection. The Bill did not authorize the crown to send any troops not recognized by parliament to India or elsewhere. By virtue of his royal prerogative his Majesty had an undoubted right to send his army, or any part of it where he pleased. But, what army? Why, that army that the Crown was legally entitled to maintain. The four regiments to be sent to India were a part of that legal army. They had been regularly voted by the House of Commons, and the Crown could not send a single regiment to India that had not been so voted. Another objection, on which much argument had been rested at the bar, was, that sending the four regiments would diminish the surplus of the India revenues and lessen the share that the public were to participate of that surplus. Before any thing could be made of that argument, it must be proved that there was any law that there always should be a surplus of the revenues of India. If he understood any thing of the meaning of the word 'surplus,' it was the eventual excess of any revenue over and above the expendi-

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ture. The security of possessions productive of revenue, ever had been, and ever must be, the first consideration in all countries, and therefore it was idle to talk of a surplus as permanent and certain. The security of every possession was necessarily governed by events, and consequently must vary as circumstances varied. Mr. Scott took notice of several other parts of the speech of the petitioners' counsel, and answered them, and particularly marked the distinction between Mr. Fox's India Bill, and that which passed into a law in 1784. The one, he said, he had ever considered as a murder, the other as merely putting the patient under a mild regimen. After having stated a variety of grounds on which gentlemen of different descriptions and sentiments might fairly and honourably vote against the Bill he proceeded to establish his original position that the Declaratory Bill did contain a sound and true exposition of the India Act of 1784, by an examination of all the clauses, and by a variety of reasoning upon their respective analogy and bearings; in conclusion, repeating, that although he was of opinion the Declaratory Bill ought to pass, yet if sufficient argument could be advanced to satisfy his mind that he was in an error, he would freely retract it.

Mr. *Pitt* said, that it was not his intention to rise thus early had he not been at the close of the debate on Monday last, so pointedly called upon to state the grounds on which he thought it necessary to bring such a bill into that House. His original intention had been to have waited in order to have answered the objections, if any there were, that gentlemen might have to urge against a proposition, by no means complex or intricate, and he had been the more inclined to follow that line of conduct, as he had on the very day that he asked leave to bring in the Bill, shortly but explicitly stated the object of it, and the reasons for which ministers thought it necessary to introduce it. But, as he found that much argument against the Bill was likely to be grounded on the circumstance of his silence, and as no gentleman in that House could possibly be more anxious than he was that the Bill should be fully discussed, he was exceedingly desirous to put it in all the points of view in which it could be examined. He meant not to argue the principle of the bill, but barely to lay down the grounds upon which it might fairly and reasonably be argued by others, trusting to the indulgence of the House, usually extended to persons, who were the introducers of any bill, to give him an opportunity to reply to the arguments of those who might start objections of apparently sufficient weight and validity to require an answer. Even had he originally entertained an intention of going at large into the argument in defence of the principle of the Bill, he should be perfectly willing to forego that intention in a very great measure, in consequence of the very able argument of his learned friend near him, who had in the most candid manner, stated a variety of grounds, on which gentlemen, if they saw occasion, might reasonably object to the Bill, and had put the construction to so true a test, that he was willing to rest it upon his learned friend's reasoning.

Upon the first view of the Bill, two questions naturally presented themselves: first, whether there existed a necessity for expounding the Act of the 24th of his Majesty? And next, whether the Bill then before the House contained a true and sound exposition of that Act? On both these questions his learned friend's arguments appeared to him to be conclusive. He would therefore leave the second question to rest solely upon what his learned friend had said, and state what he had to suggest without reference to the consideration of construction.—His Majesty had judged it expedient, fer the defence and security of the foreign possessions of the Crown, that four regiments should be sent to India. The Court of Directors entertained the same opinion as to expediency, but differed about the mode. The Board of Control thought it had sufficient powers, under the Act of 1784, to send out the troops, at the expense, and without the consent, of the Company. The Court of Directors denied the existence of any such powers. Here was, evidently, a doubt upon the construction of the Act; but as the security and defence of a most valuable part of the empire were at stake, were they to wait the discussion of a court of law, which possibly might not be obtained until the great object of the appeal to the court should have been entirely defeated? Much more, therefore, did it become the Board of Control to apply at once to the legislature for an explanation of one of its own acts, than to run the risk of the loss of empire, by waiting for the decision of a court of law, after a tedious and dilatory process. It had, however, been urged by the Court of

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Directors, that though the necessity of sending out the troops did exist at the time that it was first proposed that they should be raised, that necessity had since ceased; and therefore the Company ought not to be subjected to a heavy expense, for which there was now no occasion. He could not, however, agree with them, that the necessity which had made both the Crown and the Company agree in the expediency of sending reinforcements to India, had by any means ceased. It was true, indeed, that on the eve apparently of a war, his Majesty's ministers had turned their thoughts more particularly to the state and condition of the distant possessions of the empire; but though the danger of a war was at an end, it appeared no less expedient to ministers, that the troops should be dispatched now, with a view to a permanent establishment for the security of India. The reinforcement, which they thought at first needed to be only temporary, they now had reason to think ought to be made part of a permanent establishment; and, therefore, the propriety of sending it out, did not depend upon the nation being either actually at war, or threatened with a rupture. This being the state of the case, was it fit that Government should wait until a decision of a court of law could be obtained, whether, under the Act of 1784, the Board of Control could or could not charge upon the Company's revenue the expense of sending to India the four regiments that had been lately raised for that service? Could they be said to discharge their duty to the public, if they did not immediately apply to Parliament, for a declaration of the meaning of the Act of 1784; or could they justify themselves to their country, if, while they were waiting for the determination of a court of law on the subject, our territories in the East should be lost or endangered? Another consideration, though of less moment than the security and defence of our empire in the East, was certainly of very great importance. If the new regiments were to be sent out in the Company's ships, the expense would be little or nothing; but, if the Government should be reduced to the necessity of hiring transports for carrying them, the expense would be little short of 100,000*l*. Now, let that fall where it might, whether upon the treasury of the Company, or upon that of Great Britain, it was a matter of very serious consideration; for, in either case, the public must feel it: if it fell upon the Company, it would of course deprive the nation (as far as that sum went) of the chance of participating in the profits the Company should make beyond 8 per cent.; and, surely, it was the duty of those whose station required that they should watch over the interests and ease of the people, not to suffer a lavish and unnecessary waste of public money in any department over which they had any control. It was, therefore, proper, that they should apply to parliament for a declaratory act that should take from the Directors the only pretext they had, for refusing to receive the four regiments on board the Company's ships. The Directors had contended, that the patronage of these regiments had been taken from them, and employed by the Crown. To this the reply was, that, as the regiments belonged to the Crown, of course it belonged to the Crown to name its own officers. But in this case his Majesty had acted with the most gracious attention to the Company, and the very meritorious officers who had grown grey in its service, having relinquished nearly half the patronage of the regiments, bestowing only one half of the commissions, and leaving it to the Company to dispose of the other half among such of its officers as should be found most deserving. The Directors, however, wished for the whole patronage, instead of the half; alleging, that they had at the time 600 of their officers unemployed. Their expectation, however, on this head, appeared to be unreasonable; for though his Majesty was willing to admit the very meritorious services of the Company's officers, still he could not forget that he had upon the half-pay list of his own army 2,800 officers, not more perhaps, but certainly not less meritorious than any in the Company's service: and of these 2,800 many had actually served with distinction in India, and had helped to extend and maintain the territorial possessions of the Company. Gentlemen, might say, that the defence and security of those possessions might have been as well consulted by adding four regiments to the Company's military establishment in India, as by sending over four regiments belonging to the Crown. But to the former there were some objections. In the first place, when it was proposed that they should be raised, it appeared of great importance that they should be raised with expedition; and nothing could tend more to the speedy

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completing of them, than that officers residing in England should be commissioned to raise them, and should have an interest in doing it with all possible dispatch. For this purpose, some had been taken from the half-pay list, and others had got the advancement of a single step in rank, on the condition that they should raise a given number of men. The officers of the reduced supernumerary companies had experienced the preference, and he believed the expedition with which the regiments were completed, was altogether without example. Nor was this the only reason that had induced the King's ministers to send four royal regiments to India, rather than add four to the Company's militia. The inconvenience arising from two distinct armies, with distinct establishments, serving in India, had been severely felt; and men who wished well to the common cause, in which both were embarked, had frequently lamented that some steps were not taken to consolidate and blend the two services together, so that the army of the Crown and that of the Company should in future form only one army. Such a consolidation was, undoubtedly, to be wished for, and sooner or later it must be attempted. Of this he would shortly say more; and therefore in this place he would only suggest, that ministers having this very object in view, had thought it more advisable to raise royal regiments to serve in India, than Company's regiments; because, if they had preferred the latter, they must have made the consolidation of the two armies, by so much, a work of more difficulty.—Whether the construction, which the Declaratory Bill gave to the Act of 1784, was that which, in fairness, it ought to bear, was next to be inquired into. He was thoroughly convinced that it was; and, indeed, if the Act of 1784 did not give the Board of Control the power which it claimed, he must have been greatly deficient in endeavouring to frame it so as that it might convey his meaning. What had been his avowed objects in framing the Act of 1784? The principal one was, to take from the Company the entire management of the territorial possessions, and the political government of the country. The other was, to leave to it the direction of all the commercial concerns and arrangements. If the Board of Control was to be responsible to the public for the political government in India, and for the prosperity, defence, and security of the provinces, was there common sense in supposing that it was not to have the management of the revenue, by which alone the Board could be able to provide for their security and defence? In the nature of the thing, the Board, if it had any responsibility at all—and no doubt it had the responsibility of the whole political government of India—must necessarily have the entire management and disposal of the revenue, subject, however, to the control and judgment of parliament. It was under the conviction of his being possessed of the power of managing the revenue that his right hon. friend (Mr. Dundas) had, on a former day, said, that he would not leave to the Company a single rupee for its investments, if he found it necessary to employ the whole in defending and securing the territorial acquisitions: his right hon. friend put an extreme case; no doubt he meant, that the power which was invested in him by the Act, was not to be wantonly and rashly employed, but to the best of his judgment, for the general advantage of the empire, and that parliament had a controlling power over him, to call him to account, if he should happen to make a bad use of the authority with which he was intrusted. His right hon. friend never did mean, that he was at liberty, in order to gratify any caprice of his own, so to dispose of the Company's revenues as not to leave any fund for the annual investments by which the trade was carried on: he only meant, that in case of urgent necessity, in which it would be impossible to make provision both for the defence of the country and the commercial investments, the latter ought to be lost and forgotten in the superior importance of the former. This opinion he himself entertained; and if such a case should arrive, he would not hesitate to declare, that he would not appropriate a single rupee for the purpose of investments, if, by withholding it, he should be able to repel any danger that might threaten the provinces with destruction. If four regiments might be sent to India, it had been said, any number might be sent, and the King might then keep an army in India without the consent or knowledge of parliament; and more particularly if the Board of Control had a right to direct, that the expense of carrying out and maintaining as many regiments as the Crown should think proper to send, should be defrayed by the Company. This apprehension of the existence

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of an army contrary to law was altogether without foundation. For, in the first place, let the troops in India be paid by whom they might, the existence and natural state of them were always known to parliament. With respect to the four new regiments, the House of Commons had given a sanction to them already, by voting the estimates for raising them; and, therefore, as far as the objection went to these, it was ill founded. Indeed, he believed the objection was stated merely for the sake of objecting; for, if there had been a thorough understanding between the Board of Control and a majority in the Court of Directors, so that the latter should require that troops should be sent out, there would have been nothing said in that case, of an army serving in India, without the knowledge or consent of parliament. It was of little consequence by whom paid. Parliament could extend its control to every part of the empire, and would not suffer an army to exist in any one corner of it without its consent. In order that it might exercise that control, estimates were laid every year before parliament, of the number of men that would be employed in India, as well as England, and of the sums necessary for their support, though those sums should be advanced by the Company. But even though these estimates should not be presented, yet parliament would always be able to know what number of the King's regiments served in India, from the company belonging to each kept in England for the purpose of recruiting.—He remarked, that as he was then upon the subject of armies, kept up without the knowledge of parliament, he must observe, that there was very great inaccuracy in the framing of the laws relative to that subject. The Bill of Rights was not very explicit; it hardly stated the illegality of a standing army within the kingdom; but was silent with respect to an army out of the kingdom. The Mutiny Act was penned still more loosely. It provided specially for the maintenance of discipline in the army voted for home service, without specifying any thing relative to troops that might be serving out of the kingdom, except by subjecting all troops in the King's pay to the penalties of the Act: it also gave the King a power of making new articles of war, and inflicting new penalties, provided they did not amount to loss of life or limb in England; leaving it a matter of doubt, whether troops out of England might not be made subject to capital punishment for crimes not capital in England. Parliament voted money for plantation service, and yet the Mutiny Act made no mention of troops serving in the plantations; it only left it to be inferred, that we had troops abroad as well as at home. These were inaccuracies on points too deeply affecting the interests of the constitution to be overlooked. But these were not the only inaccuracies. It was very remarkable, that the Mutiny Act took no notice of the company belonging to each regiment serving abroad, which is kept in England for the purpose of recruiting for the regiment to which it belongs. One good attending the present dispute would be, he hoped, that in future these additional complaints would be noticed in the acts for punishing mutiny and desertion, and in the appropriating act passed at the close of every session, in which every sum is specifically applied or appropriated to every service, and to every regiment by name. From this, Parliament would always know what number of king's regiments was kept up in India, and what number of men was usually sent out to recruit them.—Much had been said upon the subject of patronage; and, in his opinion, with very little reason. It had been urged, that though he had disclaimed all idea of interfering in the Bill of 1784, with the Company's patronage, still he had contrived to take it from the Directors, and vest it in the Board of Control: and if by this was meant the great political patronage, he did not deny it; for men who were responsible for the government of the country ought to have the appointment of those whom they were to intrust with the execution of their orders; but this patronage was where such patronage ought always to rest—in the Crown. The King, by the advice of his confidential servants, made the appointments, but at the same time annexed to them that responsibility inseparable from the nomination of the Crown; but which unfortunately did not belong to appointments made by the Company. This was all the patronage that had been taken from the Company: it was left to the full enjoyment of all the rest; and the rest would be admitted to be very considerable, when it was recollected that the military establishment in India was very extensive. The objections that might be stated on this head, would possibly throw difficulties in the way of the consolidation

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of the two armies in India, an object on many accounts desirable; and which, in some way or other, must be attempted; for it was agreed on all hands, that there ought to be only one army in India: and the question was, whether it should be the King's army, or the Company's. If it should be thought advisable to make the whole a royal army, then, undoubtedly, as all the officers now in the Company's service, must be taken into that of the Crown, the patronage of the latter must necessarily be increased to a very great degree; and therefore it was that he feared so desirable an object might be impeded by the suggestion that the Company was going to be despoiled of its patronage, and the influence of the Crown enormously extended; yet, for his own part, he thought the measure necessary, and he would consent to almost any thing to remove so weighty an objection to it; he would most willingly adopt any feasible plan for putting such guards and restrictions, such limits, checks, and controls upon the crown in the disposal of the patronage, as should prevent the accession of it from being dangerous to the constitution. He observed, however, that the consolidation of the two services could not possibly take place during the continuance of the Company's charter without the Company's consent.—Having given it decidedly as his opinion, that if there was to be but one army in India, it ought to be a royal army, he stated, that although a measure of that kind could not be carried into effect before the expiration of the charter, unless with the consent of the Company, yet something specific must, in his judgment be done soon, for the redress of grievances suffered by that brave and meritorious description of men, the Company's officers, now out of employ in India. When, however, he mentioned the idea that some gentlemen entertained, of his Majesty's having a right to maintain a standing army without the consent of parliament, he declared he hoped never to see the day when such a principle should either be openly recognized, or covertly introduced; and that no man should on any occasion show himself more ready than he would, to stand forth the advocate of the fundamental principles of the constitution.

Colonel *Barré* declared, that the candid, fair, and open manner in which the right hon. gentleman had courted the discussion of the present Bill, did him the highest credit. A learned gentleman who spoke early in the debate, had said it was not a question of politics, but a question of law, or he would not have spoken to it. For his part, he was no lawyer. He had done pretty well hitherto with a moderate portion of common sense, and he saw nothing in the complexion of the present business that common sense was not fully equal to. Much had been said on the subject of an India Bill that had passed that House, but had been rejected by the Lords, and on the subject of another India Bill, that had passed the legislature and had become a part of the existing law of the land. He was not competent to allude to what had been the topics in that House, when the first Bill had been under discussion, having been unfortunately ill at Bath; nor had he been present when the second had been agitated. He had heard, however, that the first Bill occasioned a violent clamour, and was generally complained of as an enormous attack upon the chartered rights of the East-India Company, and a dangerous innovation on the constitution. The second Bill he had read, after it had acquired the shape of an Act of Parliament, and he would fairly say, he thought hard measures had been dealt out by it to the Court of Directors. He mentioned this to some of the Directors, and asked, why they had suffered such a Bill to pass unresisted. The Directors admitted, with him, that the second Bill darkly and tacitly conveyed powers to the Board of Control, as hostile to the rights of the Court of Directors as the first Bill, but that they had a confidence in the administration who introduced it, and had no doubt of their exercising their powers with gentleness and moderation. The Declaratory Bill was a proof of their mildness? The learned gentleman who spoke early in the debate, treating of the different effects of the two India bills, had said that the first meant to put the Court of Directors and the Court of Proprietors to death, the second to put the patient under a mild regimen. Was the Declaratory Bill part of that mild regimen? He should not do the manners, conduct, and character of the right hon. gentleman, who sat as chairman of the Board of Control, justice, if he was to state him as a person likely to administer a mild regimen. It had not been his custom to administer such recipes: his habits had been different.—The colonel condemned the present mode

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as unwise, and wholly improvident on the ground of economy. He said, of two elections, the worst had been made. Suffering the India Company to raise four regiments, or sending over 2,826 men, as recruits, and without King's officers, would have been a wise and an economical measure: sending them over as regiments was directly the reverse. He stated the charge of maintaining four King's regiments to be 50,000*l.* a year in time of peace, and near 80,000*l.* in time of war. The Company's troops might have been maintained at infinitely less expense. The Company's officers. he contended, were men, who deserved every thing at the hands of this country. They had contributed essentially to the preservation of India in the last, to the acquisition of our territorial possessions in the first instance. They were better officers, generally speaking, than our subordinate officers. He knew, when he said this, that he ventured upon a strong remark, and he hoped that no offence would be taken by gentlemen of that profession to which he had the honour formerly to belong. He spoke on the authority of gentlemen more conversant with the subject than himself, and better informed than he could pretend to be. From them he had learnt, that the Company's officers had an opportunity of acquiring knowledge which our officers had not. [He here quoted a passage from colonel Fullarton's publication on the subject of the British interests in India.] And that from the nature of the education, and from the sort of service they were accustomed to, such as guarding against surprise, being prepared to move at a moment's warning, assisting in the collection of the revenues, &c. all matters to which surbordinate King's officers were wholly unaccustomed, and in which the Company's officers were uncommonly expert. Another mischief was, the confusion that mixing the two services would lead to. He had, the other day, said, that juniors would be preferred over the heads of senior officers, and he had been told he was mistaken. He had since referred to the documents, and he found that he was mistaken, and that a measure had been adopted to provide against the mischief. That measure, he would venture to pronounce, would not succeed. It was not every officer of subordinate rank who would accept the proffered promotion in the King's service. Some would say they commanded batallions of sepoys, others that they had other advantages. The colonel here stated various professional reasons, as well as others, which would operate as difficulties in the way of prevailing on the Company's officers to exchange their situations for royal military rank.—Having enlarged upon those several topics, the colonel called heaven to witness, that a much more serious cause, than any thing that he had stated, had brought him down to the House. He declared that he saw a system of patronage, a settled and regularly digested plan at the bottom of the whole business. He had seen it all along, and what the right hon. gentleman at hinted at, of making all the military in India royal, had confirmed him that there was a design to grasp at all the patronage of the Company. It was, he too plainly perceived, a regular progressive plan, and the Declaratory Bill then before them, was only one step more towards its completion. He conjured the House to look about them, to be aware in time, and to consider the subject in all its parts. Had not the present Board of Control interfered with the patronage of the Company already? Had it not interfered not only with its civil and military, but with its commercial patronage? In the late contest, the Court of Directors had thought it right to print their papers, and from them it appeared, that the court were better judges of the quantum of military establishment necessary for the security of India, than the Board of Control. The colonel referred to the paper stating the contest between the Directors and the Board of Control, relative to the peace establishment, which the former insisted ought to amount to a certain number, and the Directors contended for a greater reduction. He enlarged upon this obstinacy on the part of the Board, who now came of themselves and proposed to send four King's regiments, in addition to that very establishment, which they had contended, was too large, and ought to be reduced. He spoke of several of the Directors as men of credit, ability, and honour. It was the interest of the country to have men of such characters in the direction, but if the Directors were to be harassed with perpetual contests with the Board of Control, and where they would not give up their understandings, were to be driven to a dereliction of their rights, the consequences would be, the direction would not consist of men so respectable, so sensible, and so fit for their station

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as the present, but would be made up of low insignificant individuals, possessing neither character nor consequence.—He reminded the House, that experience told him how soon a military force grew upon any people, even those the most free in their constitution, and the most jealous of a standing army He dwelt on the alarm that ought to be taken at the suggestion of making all the military in India royal. The immense patronage of all India, which must be the necessary consequence, would inevitably fall into the hands of the Crown, where it could not be safely trusted. He could not, therefore, but wish, that all the patronage of the Company might remain with the Court of Directors. In the hands of any minister, such an extent of patronage would be too great a temptation not to be dangerous. The present minister had given in many instances, strong proofs of integrity; but who could answer for such a temptation? the best man breathing might not be able to withstand it. But supposing the minister were firm in his integrity, it was not the time present only that was to be looked to. He believed the present House of Commons as virtuous as any that ever had existence; but might there not come a corrupt minister, and a corrupt House of Commons? and then the possible consequences were dreadful, even in speculation. The road to fortune in the army was naturally progressive and slow. The minister's appointment might at some fatal moment, be deemed a certificate to fortune: instead of painful duty and subordination, sudden means of acquiring wealth might be resorted to. Rapine and plunder might supersede glory and conquest; and as the necessity of safety and protection would next present themselves, those who had, by means so degrading to human nature, and so disgraceful to the national character, amassed fortunes would be ready to purchase it at any price. They would find their way into that House: they would eagerly proffer their assistance to the minister who had made them; and as so easy a mode of rapidly acquiring wealth, would be easily adopted, the minister would soon have that House at his absolute command. As the reverse of this picture, he put the case, that all the patronage, military as well as civil, were lodged in the Court of Directors. The worst that could follow would be, that the patronage would be divided among the families and relations of the Directors. The torrent that in the other case would overwhelm the constitution, would harmlessly divide itself into numberless streams, and its ramifications would be so numerous, that no one rivulet could carry a dangerous tide. Gentlemen of honest minds would, by fair means and in due time, acquire moderate fortunes; they would, if their ambition prompted them to seek a seat in that House, feel themselves independent; and having no occasion to court the smiles of an overgrown minister, they would have no debt of gratitude to pay, but would act as their consciences dictated, and to the best of their judgments, for the good of their country. Some few who were present, might recollect the struggle they had in that House a few years since, to check the progress of the influence of the Crown. It was voted, that the influence of the Crown had increased, was increasing, and ought to be diminished. He had taken part in the struggle, and he, as well as those with whom he had the honour to act, had the good fortune to succeed. He said, any man who walked the streets of the capital could see this system. That House could not be too much upon its guard. He conjured them, therefore, to consider, that the first step towards danger was that which ought most to be avoided, and solemnly declared, that if the present Bill passed, a fatal stab would, in his opinion, be given to the constitution.

Colonel *Fullarton* expressed how much he was flattered by the very favourable manner in which so high a military authority as Col. Barré had been pleased to quote a passage from his book, in behalf of the Company's officers. With regard to what had been so ably stated by the Chancellor of the Exchequer, he by no means intended to enter into a general discussion of the various points which the right hon. gentleman had urged. He should not offer any observations concerning economy, nor patronage, nor the consequences of maintaining a standing army independently of parliament. Neither should he attempt to discuss the relative pretensions of the Court of Directors and the Board of Control, nor comment on the particular formation of the corps in question. He allowed the wisdom of that principle of precaution, which inclined ministers to maintain a respectable European force in India. It was a principle which had been strongly recommended by sir Eyre Coote, and every succeeding com-

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mander since his time, and it had been very much attended to in this country, since it appeared, that were the King's and Company's establishment in India complete, there would be 14,000 Europeans; and by the last returns it appears that there were 11,600 effective men exclusive of officers. Although he opposed the present measure, he begged to be understood, not to object to the principle of maintaining a strong European force in India, but to the mode in which it was now proposed to carry that measure into execution; for in its present form it could not fail to wound the feelings and injure the professional situation of 1800 of the Company's officers, who deserved as well of their country as any equal number in the King's dominions. Although the Chancellor of the Exchequer had been pleased to express himself favourably concerning the Company's officers, yet he did conceive himself warranted in believing that the Company's officers could expect no substantial and satisfactory relief, unless they were either formed into a part of the King's army, or continued until the expiration of the Company's charter in 1791. I shall, said he, beg leave to remind the House, that the rise of the Company's service is solely by seniority, in a progression so slow and painful, that I myself have known an officer who had served the Company 17 years, of which he had passed 15 under canvas in the field, without attaining higher rank than that of captain. I leave it to the House to determine what the feelings of that man must have been, when he found himself superseded by a young gentleman, from an academy in England, who perhaps two years ago, obtained an ensigncy, got a lieutenancy in one of those new corps, and acquired the rank of captain before he reached India! He proceeded to explain by what unparalelled exertions Company's officers acquired an empire worth ten millions sterling. During the bloody contests under Clive and Lawrence, against a multitude of foes, the Company's officers were inured to conquest. They afterwards preserved, by their good conduct, what they had acquired by their military enterprise. They had accommodated themselves to the country, learned the languages, attached the natives to the interests of the Company, trained their sepoys to the use of arms, and while the officers of other powers, who had possessions in India never could make any thing of their native soldiery, beyond an undisciplined rabble, the officers of the Company's service rendered their sepoys brave, regular, and willing to meet any European troops in the field, and to meet them with effect. In proof of these assertions, he read a general order of sir Eyre Coote to the army at Madras, dated Jan. 1, 1778. Since that period, said he, they have been tried in a severe contest. They have been tried *certamine summo*, against Hyder Ally, against the Mahrattas, the Dutch and the French; and in all of these contests, they have acquired additional reputation. One body of them marched acros the broadest part of India, under general Goddard; another marched all the way from Bengal to the Carnatic, under col. Pearse; detachments acted against the forts of Mahu, Negapatnam, and Trincomale; while others were employed, under extreme embarrassments, on the Malabar coast. The Carnatic army under sir Eyre Coote, had to move, during three campaigns, in a desart. When Hyder Ally entered that country, at the head of 100,000 ravagers, he spread fire and desolation through the whole country. They were most irregularly paid, and had to procure at Madras, every article for their subsistence, which they purchased at exorbitant rates, and had to convey along with the Carnatic army. All this they bore with a perseverance which astonished even their enemies, and at last drove those ravagers from the Carnatic. With regard, he said, to the officers of the Company's service, who acted in the army which I had the honour to command in the southern provinces in India, and in the invasion of the territories of Tippoo Sultan, it is impossible for me to do justice to their merits and exertions: they took the field under a complication of embarrassments that would have damped the spirits of any men less zealous for the public cause; they took the field with twelve, fifteen, nay, in some cases, eighteen months arrears due to them, and to their battalions. The junior officers had to sell their wearing apparel, nay, the very buckles out of their shoes, to procure means of subsistence; the land officers, those who had command of sepoy corps, and possessed either money or credit, advanced freely for the relief of their brother officers and starving sepoys; nay, they did more: many of them, though the Company's credit was then at the lowest ebb, advanced from their own funds, to purchase bullocks, stores, and

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other articles, without which the army could not have moved. At the conclusion of the war, they were either not paid at all, or they were paid in Bengal bills, with a loss of 30 or 40 per cent. They had been superseded during the war by 200 King's officers. All this, hard and cruel as it was, they bore conscious that it was necessary for the public service in a moment of great national exigency. So much for the Company's officers, on the plea of justice and pretension. But, if there be any men in this House on whose minds the plea of justice and pretension are of less forcible impression than apprehensions of impending danger, let me ask, do they recollect the jarrings and animosities that have for years prevailed in our Indian settlements? Do they recollect, that council has been at war with council, and presidency with presidency; that generals have seized governors, and governors have arrested generals? That the servants of the King, Company, and Nabob, in short, all classes and descriptions of men, have been at war with each other in those distant and distracted settlements? Do they recollect, that at no very distant period, the gates of Fort William were shut—against whom? Against sir John Clavering, the King's commander in chief. That at a more recent period, the gates of Madras were shut, the guns shotted, and the matches lighted, to defend the place—not against Hyder Ally and the French, who were then in sight of the walls, but against an attack apprehended from an English army, under a King's commander in chief! If these monitory instances, drawn from our own recent history, are not sufficient to deter from a measure which, though meant for the purposes of preservation, may prove the instruments of our destruction, let me ask, were not the French great and powerful, and conquerors and sovereigns in India, as much as we are sovereigns? All this they were, in the days of Dupleix; but owing to the collision and counteraction, above all to the supercession and consequent animosity which prevailed between the King's and Company's service, under Lally and Deleyrit, they were involved in a complication of calamities, which ended in their total expulsion from all power and territory in India. In short, discord was the ruin of their power, and discord will be the ruin of our power in India! Would you avert these evils? Away, then, with all dangerous contentions, all systematic innovations; the *subterfugia malorum* one day, and convulsive struggles and graspings after power the next; those desperate remedies which always aggravate the evils they are meant to cure, and in every age and country prove the forerunners of great national calamity! I am confident, added the colonel, that it cannot be the intention of ministers to act on such a system; I am confident, that whatever arrangements they may judge necessary for the preservation of our Indian territories, they will not suffer the Company's officers to remain under the pressure of injustice. That pressure must continue as long as they act with the King's troops, until they are allowed equality of rank, according to the dates of their respective commissions. Unless this be granted them, I conceive it is adding injury to hardship, and insult to distress, perhaps beyond the limits of their endurance. This is a delicate subject; I am afraid to say more, lest I should pass the bounds of propriety, and I could not have said less, without mistating my own sentiments of gratitude and obligations due to those brave and deserving men. The calls of justice are loud in their behalf, and it will be a left-handed policy indeed, to withhold redress from their complicated causes of complaint; for as we owe an empire to their exertions, so we may lose it by their discontents. I conjure the House seriously to recollect, by what slender ties our Indian empire is attached as an appendage to this country. The 1800 officers of whom I speak, with a few gentlemen in the civil service, form the only bond of union and communication between the inhabitants of that country and of this; they form the links of the chain, as it were, by which India is bound to England. Break that chain, and the whole mass and fabric will tumble to pieces, and leave this country to lament the mighty ruin!

Mr. *Robert Thornton* began with observing, that he was desirous of securing the attention of the House before it was fatigued, because, having been present at the discussion of this subject in another place, and having taken a decided part as one of the directors, he felt it his duty to account for his conduct. When he first had the honour to be trusted with a share of a direction of the East-India Company, he found that it was just, reasonable, and consistent with law, that the four regiments should be sent to India, but having

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grown two months older, the case was changed. Several gentlemen in the direction remember being told by their chairman at an early time, that the regiments were to be permanent. The chairman himself declared that he did thus state the case, and mentioned his authority from the Board of Control, to publish this to the Directors. Long after its being thus asserted, they rescinded their resolution of the 17th of October, from which, he argued, that there was an acquiescence on the part of the Directors to accept the troops. From all this, he inferred an acquiescence on the part of the Company which could not be departed from. He farther expressed his conviction, that the Board of Control had power over the territorial revenues, and might apply them, at all events, for the protection of our Indian possessions. He was not afraid of the cry which might be heard from the other side of the House, provided that he declared, (which he would do) that one most leading feature of Mr. Pitt's Bill was the taking away the civil and military government from the Court of Directors, with the view to leave them only their commercial privileges, which were never touched. Yet, notwithstanding that, he could easily distinguish this from another violent and oppressive bill, privately brought in by a right hon. gentleman, which met with its fate in the House of Lords. One violated charters, the other did not. He asserted, that no corporation of private citizens could assume the government of a country, and he contended for the rightful prerogative of the Crown. The Board of Control were certainly responsible for their own measures, and he hoped they ever would continue to be so. He said that some gentlemen seemed to feel an indignation if any part of Mr. Pitt's Bill resembled that brought in by Mr. Fox. He therefore begged, that he might not be forced to blame every part of a bill which formerly had been rejected. The right hon. gentleman whose Bill had been lost, declared in his place, that he could not avoid coming forward with a decisive measure, though it violated chartered rights, and he said, at the time it was forced upon him, and he could not shrink from such an interference. Now, there was a much stronger necessity for bringing in the present Declaratory Bill, since the gentlemen of the law, as well as the Directors, maintained opinions so very different. He declared, that nothing short of equal rank, according to the date of commissions, ought to be given to Company's officers, and he wished to see these gallant men placed on a footing with the King's troops.

Mr. *Grenville* rose, as a member of the Board of Control, to defend them from the insinuations of colonel Barré. He challenged the colonel to state a single instance in which the Board had attempted to assume the patronage of the East-India Company. He entered at large into all the colonel's arguments relative to the choice of the two measures, the completing the deficiencies of the Company's troops, or sending out the four King's regiments; showing, that the time when the measure was fixed upon was critical and alarming; that the reinforcement of the army in India was necessary, with as much dispatch as possible; that the men could not have been obtained nearly so soon in any other way, as by that which had been adopted; that the expense arising from the mode pursued, was far less than it would have been, had the other plan been taken, and that it not only gave an opportunity of providing for a number of meritorious officers, but afforded his Majesty an occasion of putting in force his gracious intention of taking into his employ a number of the Company's officers, and thereby beginning to lay a plan for blending the Company's troops with his Majesty's army. He reprobated the idea of assuming the patronage of India, by putting the patronage of the entire army in Asia into the hands of the Crown, unless under very satisfactory restrictions, and declared that his opinion then was, as it ever had been, that it would be better to lose India entirely, than to pay such a price for it.

Mr. *Powys* said, that as he had supported the Bill which constituted the Board of Control, he must be allowed to judge on what principle he had supported it. When it was first brought into the House, he thought it little less objectionable than the Bill which he had opposed, but the most objectionable parts had been removed in its way through the House. He had never supported it on such principles as it was now said to establish, and he denied that any such had ever been maintained at the time of passing it. He argued from various amendments it had received, that no such idea of its extent had ever been entertained, much less expressed, and that if they had, it must have been rejected. The Bill which

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he had opposed possessed the open, bold, and manly features of its author's mind. That which he had supported, it now appeared, was founded on fraud and duplicity, with a view to undermine the cause which it pretended to support.

Mr. *Baring* said, that the Board of Control had assumed the entire military patronage of the Company. They had appointed 86 officers, and entailed an unnecessary expense upon the Company of 50,000*l.* in time of peace, and 80,000*l.* in time of war; 5,200 men were wanting to complete the King's troops in India, so that they had all the expense of full regiments to support, without the protection.

Sir *James Johnstone* said, that the present dispute was a matrimonial quarrel between lord Control and lady Leadenhall. He considered himself as a justice of peace, before whom the parties had come to make up their difference: he was always disposed to side against power, and should give in favour of the lady. He saw no reason why lord Control should be allowed to rob lady Leadenhall of her pin-money.

Mr. *Sheridan* said, that no man was more disposed to listen to the hon. baronet's pleasantry than he was; and, though he wished that he had treated the present question with a little more gravity, he was convinced he was actuated by a serious principle at bottom. The hon. baronet had whimsically enough compared the difference between the Board of Control and the Court of Directors to a matrimonial wrangle. He had always been taught that it was not safe to interfere between man and wife—though he, for once, would hazard the experiment, trusting that it was a marriage according to the laws of Scotland, where the misconduct of either party was held to be a sufficient ground for divorce. [Lady Wallace was in the gallery.] With respect to the question before the House it was one of the most important that could come under their deliberation. It not only affected the characters of individuals and of parties, but it went to affect the character of Parliament in violating the faith of its statutes, by a system as corrupt as it was dangerous to the most sacred and dearest interests of the constitution of a free people. He admitted that Mr. Pitt had stated the object of the Bill fully and fairly; but it was a Bill, the principle of which he denied to be founded on the Bill of 1784, and if it was not proved to be clearly so, it was impossible that the House could agree to adopt it as a law explanatory of the powers of that Bill. If the Board of Control wished to grasp at new powers and new patronage, why did they not come forward with a new Bill? But they did not dare to meet the question openly and fairly, well knowing that it would have exposed them to all the calumny which they themselves had so liberally bestowed on the violators of chartered rights. The Board had wisely adopted a mercantile idea in suffering the Company to deliver up their rights and privileges by instalment.—But the right hon. gentleman had, with his usual plausibility, declared, that they wished to be armed with no powers that were not subject to the control of Parliament. What did this declaration amount to? They only wished to have the military patronage of India in their hands, under the control of Parliament! Control was, indeed, a word not in very good repute at present; but to talk of the control of Parliament over an army which was not paid by Parliament, was too ridiculous to need any comment; and yet such was the controlling power which the right hon. gentleman had desired might be set over him. Undoubtedly, if he had spoken of the army on the British establishment, he would have been warranted in saying that it was subject to the control of Parliament, because the King had no other means of paying that army but by coming to Parliament for the money. Here the case was widely different, for the regiments now proposed to be sent to India were to be paid, not by Parliament, but by the territorial revenues of the Company. But what was still more extraordinary, by the last clause of the Act it was declared to be in the power of the commissioners for managing the affairs of India, to send as many troops as they might think necessary for the security of our possessions in that quarter of the globe. The clause was worded in the most unqualified terms; they might even send to India an army of 10,000 Hanoverians, or any number of mercenaries collected, as the earl of Chatham emphatically said, from the shambles of Germany, thus giving to the executive government the monstrous and unheard-of patronage of a foreign army not paid by Parliament. He desired gentlemen to pause before they came to a vote on a question pregnant with such danger to the state.—He confessed that

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he was not a little surprised to find a renewal of invectives against the Bill brought forward by his right hon. friend (Mr. Fox.) Considering the strong measures which the present Bill went to embrace, he rather expected to have found the severity of some gentlemen softened into phrases more conciliatory. He remembered that an hon. gentleman had once compared the India Board constituted by that Bill, to seven doctors and eight apothecaries administering to the health of one poor patient—but their prescriptions were more palatable than the dose now mixing by the learned Doctor of Control, who in the true spirit of quackery, desired his patient to take it, and told him that he had no occasion to confine himself at home, but that he might safely go about his business as usual. This sovereign remedy, he said, would no doubt soon be advertised under the popular name of "Scots pills for all sorts of oriental disorders." Mr. Sheridan then took a comparative view of the merits of the two India Bills, in which he paid a compliment to the manly and decided conduct of Mr. Fox, in opposition to the crooked policy which had led to the discussion of the question then before the House. It was very remarkable, that when the right hon. gentleman introduced his Bill, he prefaced it with a speech, declaring that it had been fully explained to the Directors, and that they approved of it. This he was now inclined to doubt, otherwise it would be difficult to account for the Declaratory Bill. But perfection was not the lot of humanity. This was the seventh perfect system which had been introduced for the good government of India, and still there was much to do. He here read the titles of the various Acts which have from time to time been introduced by Mr. Dundas, and as often repealed, altered, or amended; one of which was "An Act to obviate all doubts which have arisen, or may in future arise, respecting the government of India." He then proceeded to animadvert on the interference of the Board of Control with the patronage of the Company, not only in their civil and military, but in their commercial concerns, and read extracts from their correspondence in support of his assertion. He compared the Board of Control, the Court of Directors, and the body of proprietors, to the Dramatis Personæ of Swift's Tale of a Tub, and concluded with an appeal to the feeling of the House on the situation of the officers of the East-India Company, who, if the present Bill should pass into a law, would suffer degradation and disgrace, not only in their own opinion, but in the eyes of those whom they had often led on to victory.

Mr. *Dundas* replied to colonel Barré, who, he said, had charged the Board of Control with having usurped the whole of the patronage and commerce of the Company.

Colonel *Barré* denied that he had made any such charge, and in explanation said, that he in moderate terms had put a question, asking if the Board had not interfered with the civil, military, and commercial patronage of the Company?

Mr. *Dundas* rose again, in reply to Mr. Sheridan. He took up his several charges one by one, stating the circumstances of each, and challenging the hon. gentleman to prove that in any one instance the Board of Control collectively, or he individually, had acted in a manner that deserved censure. He went into a variety of arguments to show that the right of the Board of Control to apply the revenues of the territorial possessions in India to their general security, had never been questioned from the first passing of the Bill in 1784 to that hour. He entered largely into detail upon the several transactions that had occurred respecting the four regiments, and stated why the sending them was infinitely preferable to suffering the Company to fill up the deficiencies of the regiments on their own establishment in India.

Mr. *Pulteney* said, that he could not give his support to the Bill, because he could not consider it as bearing the true construction of the Act of 1784. The House had not been given to understand, when the Bill was in discussion, that it bore any such meaning as was now declared to belong to it. He complimented Mr. Dundas on the integrity and assiduity of his conduct as chairman of the Board of Control. He also praised the measures that had been generally taken by Mr. Pitt; but reminded the House that it had been expressly declared, when the Bill of 1784 passed, that the Board was not to meddle with the patronage of the East-India Company. Besides, the measure of sending the four regiments appeared to him to want the necessary regard to economy that ought to characterize every measure of administration.

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Mr. *Bastard* said, that he had opposed Mr. Fox's Bill, because he considered it an attack on the constitution and chartered rights of the Company, and he supported the Bill of 1784, because it was declared to be the very reverse. If the Declaratory Bill passed, it appeared to him to go all the lengths of Mr. Fox's bill; only it did that in an undermining way, which the right hon. gentleman had avowed in a manly and undisguised mode. The two reminded him of the parable of the publican and the pharisee in the gospel; Mr. Fox, like the former, confessed his error with proper humility, while the latter denied his sins, and insisted on his righteousness. Mr. Bastard spoke against the present Bill. He said, the Bill of 1784, as now construed, had given the Board of Control so much authority by wedding it to the Court of Directors, that, like Leon in the play, upon quarrelling with his wife, it now presumed to hold a similar language to the Court of Directors, with whom it had lately differed.

> Thou cosen'd fool?
> I will not be commanded: I am above ye,
> You may divorce me from your favour, lady,
> But from your estate you never shall.

He concluded with declaring, that he could not, in his conscience, vote for a measure which he thought did not promulge a sound and true exposition of the Bill of which it professed to be explanatory.

Mr. *Fox*, in a most powerful speech, concluded the debate. He began by charging Mr. Dundas with having spoken for three hours and a half, without having said any thing to the question. He then ridiculed that right hon. gentleman's mode of defending the Board of Control from the charges of different attempts to interfere with the patronage of the Company; declaring, that what the right hon. gentleman had himself said, rather proved the charges. According to his own account, the Board, instead of exercising its proper functions, had assumed those of the Court of Directors. Mr. Fox, with great humour, explained, why he understood this. He then warmly combated Mr. Dundas's arguments in defence of the measure, and contended, that it was a direct endeavour to take into the hands of the Board of Control all the powers and patronage of the East-India Company. He spoke of the nomination and appointment of lord Cornwallis and air Alexander Campbell, and said it was well known whose nomination and appointment both of them were. He drew a parallel between his Bill and that of Mr. Pitt, avowing that his design had been openly stated to be a design to suspend the rights, functions, privileges, and patronage of the Court of Directors for four years, and to lodge them in a Board of Commissioners, thinking it more safe experimentally to place the influence arising from the exercise of such powers, where there was no other influence, rather than to add it to the influence of the Crown, where so much influence was already placed. He stated that all the proceedings of this Board were to be open, and in the face of day, thinking the publicity of all their proceedings the best check that could possibly be devised to counteract the degree of influence they were necessarily to possess. The ground of his Bill, as stated in its preamble, was gross abuse of power, and an incapacity to retrieve the affairs of the Company. Both the one and the other were now fully admitted. The professed ground of Mr. Pitt's Bill had been the consent of the Court of Directors. That ground was obtained originally on false pretences, and was now done away completely by the conduct and avowal of the Directors themselves. He thanked Mr. Bastard and Mr. Pulteney for their able and impartial support of that day. The speech of the latter, he said, did that gentleman the highest honour, since while he disapproved the measure, he had with liberality and candour done full justice to the ability and industry of the chairman of the Board of Control, and those abilities of the Chancellor of the Exchequer that were, he said, known and admired all over the world. He mentioned that it had been understood that Mr. Pulteney was the author of a very able pamphlet against his Bill, that had done him much prejudice in the eyes of mankind. In that pamphlet the assumption of the patronage of the East-India Company was chiefly contended against. It was therefore peculiarly consistent and fair in the hon. gentleman to oppose the Declaratory Bill on the same principle. To Mr. Pulteney, he said, he was under many political obligations, but he must renounce even that gentleman's valuable support and countenance, if given him under the idea that he retracted his error, as it was called, or apologized for his India Bill in any the smallest degree; it ever had been, and

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ever would be, his pride and his boast: and as that day had wiped away much of the odium of it, he did not doubt but the period would arrive when the prejudice of the public would be cleared completely, and it would be regarded in its true light as a strong, but as a necessary and a just measure. He reprobated the Declaratory Bill as an insidious attempt to assume the same powers that his Bill would have given to his Board of Commissioners, but in a manner less open and much more dangerous to the constitution.—He said it was the boast of our laws, that the meanest individual was, in a court of justice, upon a level with the highest, his rights being equally protected. It was the boast of our laws, that the first law officer of the Crown could have no undue influence or unfair advantage over the lowest character in the kingdom. It was the boast of our laws, that the influence even of the prime minister of the kingdom had no avail over the most helpless individual. It was the boast of our laws, that the King himself had no influence which could prejudice the right of the subject in a court of justice. But the case was otherwise with declaratory bills. A declaratory bill, when it explained the rights of individuals, was not so dangerous; but, in this case, the King was party. Here there was a dispute between the Crown and an individual upon a pecuniary principle: the King insisted upon a certain sum of money for the carrying on a trade under a charter. The Company admitted a sum of money to be due, but not the amount demanded; here there was a clear and unequivocal fact on which an issue might be tried. Why not, then, try the fact in a court of law? "No," says the minister, "in a court of law I have no influence—in the House of Commons I have." This was evident oppression on the subject, and therefore he trusted there was virtue enough in the House to resist the farther progress of the Bill.

Mr. *Pitt* said, that he was so much oppressed by indisposition, that so far from exercising the privilege of a reply, he was scarcely able to put two sentences together. He was therefore glad to hear the right hon. gentleman promise to attend the future stages of the Bill, as he was extremely desirous of answering a variety of arguments that had been made in the course of the debate.

The House then divided on the question, that the Speaker do now leave the chair.

Tellers.

Yeas	Mr. John Jas. Hamilton Mr. Steele - - - -	182
Noes	Lord Maitland - - - Sir James Erskine - -	125

The House then went into the Committee, Mr. Steele in the chair, and having filled up the blanks, the House was resumed, and Mr. Steele was ordered to bring up the Report on the 7th.

March 7. On the motion, that the Report of the said Bill be brought up,

Sir *James Erskine* said, that he could not consent that the report should be brought up before the Chancellor of the Exchequer had stated those reasons in support of the Bill which, at the close of the last debate, he had declined doing, on account of indisposition.

Mr. *Pitt* said, that he was ready to proceed in the way most convenient to the House; but that, in his mind, the most proper mode would be, to permit the report to be brought up.

Mr. *Sheridan* said, that considering the ground of objection upon which he and his hon. friends had argued the Bill, it was impossible for them to suffer the report to be brought up, without a violation of consistency.

Mr. *Pitt* said, that he would willingly open the debate, previously to the bringing up of the report, were he convinced that by so doing he should meet the wishes of the House; yet, he must beg leave to suggest that, in such cases, a great deal of what he had to state might not, perhaps, be strictly in order. The subjects on which the Bill treated, and the considerations that appeared to be involved in it, were of such magnitude that he must intreat their attention while he took notice of some of the topics that had been brought forward in the debate; topics deeply interesting to the honour and the characters of those who brought in the Bill. To the latest hour of his life, he should be glad that the mode in which the Bill was discussed had again brought into notice those principles on which he began his political life, and from which he would defy any man to prove that he had swerved in the smallest degree. On those principles he wished the Bill to depend; on those principles he wished his character to depend; convinced that if ever he should abandon them, he should forfeit the approbation of his own heart, the ap-

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probation of his country, and all pretensions to the independent support that he had ever experienced in that House. From the manner in which the question had been agitated, he could never apprehend, that the House would not favour him with their indulgence; and as insinuations had been suggested, that in respect to the present Bill, he had departed from those constitutional principles, in which he gloried, he was entitled to demand their patient attention, while he proceeded to clear himself from every calumny that had been thrown on him. He reminded the House, that he had provoked a full discussion of the Bill, and had earnestly solicited gentlemen to put it to the test of the severest investigation. He had avoided the mere question of construction, and had expressly declared that he wished no gentleman to vote for the Bill, merely because they admitted it to be consistent with the 24th of his present Majesty, but to look to every question that was in any degree connected with it. In the discussion, questions far above the consideration of the conduct of the Board of Control, the conduct of the Court of Directors, or even the consideration of the existence of the territorial acquisitions in India themselves, had been found to be involved in the probable operation and effect of the Bill; and these were questions affecting the constitution at home. Better were it, if, after a fair examination of the Bill and its probable consequences, it should be thought that any possible injury could result to the constitution, that the Board of Control were abolished, and the 24th of the present King repealed. He should ever be ready to go as far as any man in maintaining the fundamental principles of the constitution; but before such an alarm was entertained, it behoved the House to look with attention to the question, and to see whether there was any reason for such an alarm or not.

In opening the present Bill, he had expressly declared, that to give patronage was no part of its intention. It was on the principle of affording power of control and superintendence, without giving patronage, that he had opened his Bill of 1784 in that House; and it was a principle in favour of which he, for one, should ever contend. In like manner, he had said, that the Declaratory Bill did not convey to his Majesty a power of maintaining an army in India, without the consent of Parliament. If he had stated any idea of that kind, with an appearance of being desirous of countenancing it, he desired to be opposed, declaring, as he did most seriously, that if a proposition of that kind should at any time be made by any other person, he would oppose it with all the resistance that he could urge against it; because, the giving the Crown any such power would directly militate against the principles of the constitution. If there should be any thing in the Bill that was at all likely to induce such a danger, the House were bound in duty either to reject the Bill, or to provide sufficient checks against the evil. Let not that danger, however, be inferred, since in truth, the Bill gave the Crown no such power; but merely authorized his Majesty to send a part of his army, already within the cognizance of that House, to India, in like manner, as his Majesty could send a part of his army to any other part of his European dominions. His Majesty's troops could not be maintained in either without the previous knowledge and consent of that House, and Heaven forbid that it ever should be possible! They must be either notified by estimates, and approved in due form that way, or noticed in the Mutiny Bill. The Board of Control had it not in their power to pay a single rupee to a soldier not legally embodied. He did not mean to contend for the power of the Board of Control to apply the revenues for defraying the expense of any body of men not under the control of Parliament. If such power was likely to gain patronage, it should be rejected; and he would then and always contend, that such patronage ought not to be suffered to remain, unless adequate checks should be adopted, so as to prevent all danger: nay, rather than suffer a doubt to remain of patronage, he would consent to bring in an enacting, instead of a declaratory bill. He begged to state his opinion of the 24th of his Majesty. By that Bill, the Board of Control had the power over the revenues of India, to be applied to the security and defence of India alone, in whatever manner they legally conceived themselves authorized to make the application. That they had such a power was clear and incontrovertible. A question then before the House would be, Whether they thought that, as he had defined the Bill, it was so considered when enacted, what was the general object of the Board of Control, and when those powers were given to the Board? Was it not meant to make that Board re-

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sponsible for the defence of India? And was not the conduct of that Board under the control of Parliament? He found it would be disputed whether the Board had any right of control over the revenue. Would it be contended, that Parliament meant to leave the revenues in the hands of the Company, who had been declared incapable of being trusted with them? Parliament had wisely given the Board of Control a power over the revenues of India, with regard to their application for the defence and security of the territorial possessions in that country. They had proceeded to reduce the enormous establishments there, and under their directions, considerable reductions had long since taken place. The difference arising to the benefit of the country, by the interference of the Board of Control, was not less than one million and a half yearly, since its establishment. Was it likely that when Parliament provided for the better management of the military and political concerns of the Company, they would leave the revenues in a loose and negligent manner? The Court of Directors would certainly, if they had it in their power, at the near expiration of their charter, and when, at least, a doubt might be reasonably entertained whether it would again be granted them, make it the first object of their attention to swell their investment, and neglect the care of the territorial and political state of India. The first duty of ministers was, to look to the prosperity and happiness of the natives of India; the second duty was to look to the security of the territorial possessions, and to guard them against any attempts that might be made upon them either by European or by native enemies. Thirdly, they were to look to the discharge of the debts, due to those persons who had advanced their money, and enabled the Company to struggle through their late dangers; and then, but not before, were they to look to the investments. Were gentlemen prepared to say that the Company would so have proceeded? Was it likely that they would have paid due attention to the first consideration—the permanent security of India, a circumstance in which this country was most materially interested? Could it then be possible, that when Parliament gave the power of control over the military and political affairs of India, they meant to leave the revenues of India without any control? It was impossible that such an idea could have been adopted.

He begged the House to consider what the situation of the Company was stated to have been when the Board of Control became instituted; it was then said that their treasury at home was inadequate to pay the demands upon it, and that their affairs in India were in a state of distraction. Since the appointment and interference of that Board, however, means had been adopted to cause larger investments to be made and sent home than had ever before taken place; the credit of the Company abroad had been established on a more solid footing than ever; their debts at home had been paid, and security given to the landholders in India. Such were the benefits arising from the interference of the Board; and could it be supposed that the Board of Control had exceeded its powers? Notwithstanding all this, their interference, according to the interpretation of the Act by the gentlemen opposite, was unwarranted, and an usurpation of the Company's rights. He begged to state to the House the first exercise of the authority of the Board, and to ask them whether it was not a necessary authority for the security of the British possessions in the East Indies? In 1785, it was known that the Company's treasury in India not only was inadequate to the payment of the current demands, but scarcely contained a sufficient sum to discharge the arrears of the army. The commissioners for India immediately sent an order for the payment of the troops in the first instance, and to leave other demands alone.—Mr. Pitt dilated on the danger that was hereby prevented; as the army were ripe for a mutiny, and, in all probability, that consequence would have followed, had not the Board of Control taken the step they did; but which they could not have pursued, had they not been vested with a power to apply the territorial revenues as they thought proper. Such a power was indispensably necessary to be given to those who were responsible for the safety of India, and without this power the Board would have been a most miserable and inefficient body. The right hon. gentleman (Mr. Fox), when the Act of 1784, was in discussion, and as often since, as suited the turn of his argument, had declared, that the Board without those powers, would be an inefficient, nugatory, and unnecessary appointment; and at another time, the same right hon. gentleman had, with his usual versatility asserted, that were those powers granted to the Board,

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the Bill would be as great a violation of the Company's charters as his own had been termed. The latter part of this assertion he would contradict. At the time of passing the Act of 1784, the House must have meant to grant such powers to the Board of Control. Had those powers been withheld, the Bill would have proved imperfect and impotent in the extreme. It would have given no power to the Board to protect the territories in India. He was ready to meet the hon. gentlemen opposite, even on the probability of the House granting those powers when they passed the Bill. He alluded to what had fallen from Mr. Pulteney, who had stated, that the powers given to the Board were the same as had before been given to the Secretaries of State and to the Lords of the Treasury. Let gentlemen refer to the Acts granting those powers, and they would see that the fact was otherwise. The powers granted to the Secretary of State were, he believed, given progressively. First, he believed, a power to open dispatches received at home; and afterwards, by a subsequent Act, a power to see dispatches sent out by the Court of Directors, previous to their going to India, with a discretion to return them in fourteen days: but there was no compulsory power on the Secretary of State to send any directions of any kind to the court at the India-house. He was to have the dispatches for fourteen days, and if he sent them back, well; but if not, the responsibility was supposed to be shifted from his shoulders to those of the Court of Directors. In both the cases likewise, the dispatches to be sent for the inspection of the Secretaries of State had been confined to dispatches on the subject of the Company's civil and military departments; those on the revenues were, under the same act, to be submitted to the Board of Treasury, that they might know from time to time the state of the revenues of India; but in neither case was the sending the dispatches back at the end of the fourteen days a matter obligatory. Now in the constitution of the Board of Control, the exact reverse was the case. Fourteen days was the period fixed on as before; the Board was then required to send them back; but if the Board did not in that time return the dispatches with their alterations and directions, the Directors were empowered to send them off to India. Mr. Pitt reminded the House, that from this very circumstance, he had used an expression when the Bill of 1784 was in agitation, which had called forth much ridicule from gentlemen on the other side of the House. He had termed the Board of Commissioners for India affairs a Board of active Control, which gentlemen had declared to be a sort of solecism. He had heard not a little in the last debate on the subject of consent; and an hon. gentleman took upon him to assert, that the Bill of 1784 had been stated as a compact with the Company, and brought in with their express and declared consent. Of that compact he knew nothing, and as to having moved it and discussed it with the consent of the Company in the Court of Directors, he directly and expressly disavowed it. He never had said any such thing. It was equally untrue that he had ever contended that charters, prejudicial to the interests of the nation were to be considered sacred, and suffered to remain. He had asserted, that they were not to be violated and destroyed upon light or trivial occasions, or without a degree of necessity equal to the extent of the proposed violation.

With regard to the Bill of 1784, he would explain the principles on which it had been introduced. No formal consent had been given by the Company. On the contrary, they ultimately had disapproved of the Bill. A meeting had been held between him and some of the Court of Directors, previous to the introduction of his first Bill, moved in the Parliament that was afterwards dissolved. At that meeting, a statement of the intended principles on which the Bill was to proceed, was produced, read, and approved. He had in his hands a minute of the proceedings at that meeting, which would best explain how matters then stood. He then read the minute; the object of it was to state that the Company acquiesced in the division of the powers of management and control; the Board of Commissioners were to superintend the departments of the civil and military, and that of the territorial revenues, while the Company were to retain the sole management of all that related to their concerns and their trade. The Bill, however, that the minute referred to, having been annihilated by the dissolution of Parliament, another Bill was introduced in the new parliament founded on similar principles with the former, but with new clauses and considerable alterations; and there were parts of that Bill to which the Directors objected; conse-

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quently, there was no compact, nor no consent. The Board of Control, he said, had been vested with such powers as necessarily made it, not as it had been termed, a nugatory and inefficient board, but an efficient Board, clothed with powers and authority to qualify it for a due discharge of the important duties delivered over to it. He asked, if it were possible that any man could be absurd enough to imagine, that the Board should be made responsible for the defence of India, and at the same time be deprived of the sinews of war? If the House had imposed on them responsibility, without giving them the means of acting accordingly, they had delivered to the Board a painful and laborious trust, mutilated in power, and defrauded of the means of carrying it into execution. They would, in that case, have left them to proceed without any principle to guide them, and without any object to attain. The House had been told by a right hon. gentleman, in the last debate, that under the construction of the Act, as pronounced by the Declaratory Bill, the Board of Control might employ the revenues of India by sending forces to the West-Indies. Because a person, for whose memory he might necessarily be thought to entertain the utmost reverence, had on a particular occasion thought proper to say, that "America was conquered in Germany," the right hon. gentleman had suggested the monstrous proposition, that India might be defended in the West-Indies, and that the Board of Control might send a fleet of transports to the West-India islands and pay them out of the revenues of India, under pretence of making a diversion in that quarter, in favour of the security of India. So absurd an idea he had scarcely thought possible to have entered the mind of any rational being. If so mad a project were ever attempted, the commissioners for India would be punishable in the first instance. Another case had been stated, that the Board might expend the revenue under the name of reward for occasional and secret services; but that was equally absurd; for such monstrous iniquity, if it could exist, could not pass undetected, nor could too severe a punishment be inflicted for such a flagitious crime. He was confident that no conduct of the Board had warranted such an insinuation. There was no man more ready than himself to have every possible check on the Board, and if any gentleman could propose additional or stronger checks against patronage in the Board, he would be the first to support him. If any danger was apprehended of a power of augmenting the King's troops, without the consent of Parliament, let guards and checks be appointed against such augmentation; or if such guards could not be fixed, and patronage could not be prevented, the power ought wholly to be taken away. He was confident that no such augmentation could take place without the consent of Parliament, as every increase of the army must be laid on their table in three different forms, upon each of which some positive parliamentary proceeding must separately take place.

An hon. gentleman, in most of whose speeches there was much fancy, in many shining wit, in others, very ingenious argument, in all great eloquence, and in some few truth and justice, had on Wednesday remarked, that it was extraordinary that he, who had stood up the strenuous assertor of the prerogative of the Crown, should profess himself an advocate for the Bill of Rights, and the defender of the liberties of the people. That he had stood up the strenuous assertor of the just and legal prerogative of the Crown, when a most daring attempt had been made to invade that prerogative, and trample on the constitutional rights of his Majesty, would ever be his pride and his boast; and he could not help thinking, that his having done so by no means disqualified him from standing forward as an advocate for the rights and liberties of the subject, when they appeared to be at all in danger. The hon. gentleman had likewise thought proper to find fault with what he had suggested in respect to the Mutiny Bill. He explained to the House, in how loose a manner the recitals of that Bill stood; and stated, that a constitutional point, so truly important as the power of the Crown to keep up a standing army, ought not to be so defectively guarded. He had, therefore, declared his readiness to assist in making the checks and restrictions contained in that Act more effectual, as a security to the subject from the danger that such extraordinary and unconstitutional powers, might expose them to, in times of corrupt and wicked ministers. In the present case, whether the company's troops or the King's troops were preferable for the protection of India, was not the question. He would discuss that point at another time, and would wish gentlemen

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to keep the subjects distinct, and look merely to the real question before them, and the leading feature of it,—the sending four regiments to India. To that, and that object alone, together with all the consequences to which it might lead, he wished gentlemen to direct their sole attention. He had again and again declared, and he begged the House to believe him sincere in the declaration, that his end and object was, to place the Bill upon such grounds as should keep it free from the suspicion of conveying patronage in any the smallest degree to the Board of Control and, at the same time, put it out of possibility that any danger to the constitution should result from it. When the four regiments arrived in India, by whom were they to be paid, and from what funds was their maintenance to be taken? The object of the Bill was, to declare, that the commissioners for India affairs had a right to apply the revenues of India to their maintenance. He had already reminded the House, that the four regiments had been voted by them, and according to the usual forms and practice of parliament, they must be recognized by the mutiny Bill. In the present case, therefore, parliament clearly knew of the regiments being about to go to India; but was the House satisfied, that the checks and guards at which he had hinted were a sufficient protection from the danger of establishing a precedent which might, at a future period, be exercised to the danger of the constitution? For his part, he wished that every guard and check that could be devised should be adopted. He wished it to be enacted, that no troops should be paid in India, without the express approbation of parliament. The troops already there, and which had been constantly voted, had been regularly brought before parliament by estimate. He wished them to be more particularly before parliament: and if any danger was apprehended from the Bill, he was ready to propose clauses to do away every suspicion of that danger, and should clauses for the prevention of all kinds of danger, and checks upon patronage be offered, let them come from what part of the House they might, or from what individual accompanied by what language they might he would gladly receive them, and esteem the man proposing them his best friend, as he would prove himself a friend to the constitution; and being so, sincerely, he would gladly accept of every check that might separate the patronage of India from England. Instead of being ashamed to act upon the checks of others, he should be proud to do it. There were grounds on which every man of honour was bound to act from his own judgment alone; there were others on which it became him to take the benefit of advice and assistance. An hon. baronet had emphatically said, "He was sent there to suspect what was doing." He did not mean to treat the hon. baronet with levity; he thought his expression good; and especially as the hon. baronet had qualified it, by stating, that he should ever suspect when he saw a wish to conceal, or symptoms of delusion. He called upon every man to suspect; it was their duty in the present instance to suspect; and no man would do his duty if he was not watchful, and did not with a jealous eye regard the principles of the constitution.

The construction of the Act of the 24th, as it applied to the Declaratory Bill, was true; and if the evils apprehended to result from it could be guarded against, the House ought to declare it to be law, and to provide the checks.

Here Mr. Pitt read several clauses alluded to in the speech of sir Grey Cooper, who, he declared, had argued the Bill closely and fairly, but he ultimately contended, that the construction put upon it by the Declaratory Bill was the true construction. He begged again to repeat what he had said in a former debate, that the situation of the officers in India was such as to merit the utmost attention, and that some specific redress must be speedily rendered them. It was stated, that the Board of Control had, in various instances, acted corruptly, and had exercised unwarrantable patronage. The only specific act of patronage charged upon them was, the appointing the officers to the regiments from the half-pay list, and thereby lightening the country of the burthen of 90,000*l.* per annum. No patronage was called for by the present Bill, but what the House had adopted, and even on that patronage he did not care how many additional restraints were laid. The difference between his Bill and that of Mr. Fox was, that the right hon. gentleman had seized the whole patronage of the army without a check, the whole political concerns of the Company, and all their commerce; while the present bill did not interfere with the commerce of the Company; it superintended only their military and political concerns, and their revenues; if it took

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any patronage, small or great, or any thing like patronage, checks were called for to restrain that patronage; it wished no patronage; but the right hon. gentleman had grasped at all, contrary to sacred and fundamental principles of the constitution. And yet that right hon. gentleman inveighed against this Bill, because it took part of that of which his bill took the whole. He had seized the occasion of enlisting the majority of the House under his banners, and prided himself on numbers flocking to his standard, vainly thinking that his will must be the favourite measure of that House, who, four years back, dethroned him from his high seat of despotism. Mr. Pitt again begged to call the attention of the House to the subject of patronage, which, he said, could not be so dangerous, even did it exist, in the Board of Control as it would be in the Crown. He declared that he could not agree to such patronage being permitted, without abandoning his principles and villifying his actions, and asserted, that Mr. Fox could not relinquish patronage, without contradicting those principles that he had ever maintained, and that conduct of which he had so often boasted. He had no doubt, that the respectable majority who voted with him on the last debate, felt and acted upon the principles he had stated. He concluded by saying, that for the purpose of having farther checks to prevent regiments being sent to India without the approbation of parliament, and to prevent the improper application of the revenue, he meant to move, when the report should be brought up, "That it be an instruction to the committee, that they have power to receive clauses for the said purposes."

Mr. *Sheridan* said, that the right hon. gentleman had been pleased to compliment his fancy, his abilities, and his eloquence, but had added, that he seldom employed them on the side of reason or truth. He rejected such compliments with scorn; and assured the House, that whenever he troubled them, he endeavoured to do it consistently with a most rigid regard to truth and justice. He conceived, he might with truth retort the accusation on that right hon. gentleman, because, if ever there was a man who deserved such compliments the right hon. gentleman might advance the most unquestionable claims. No man could be more clear and eloquent when he pleased; no man, when he wished to conceal his meaning, could veil it in greater elegance of language, or involve his sentences in a finer disguise of obscurity, when he wished to conceal that he had no meaning at all. The right hon. gentleman had charged those on that side of the House with being enemies to the prerogative of the crown, and had asserted his claim at the same time to be not only the champion of prerogative, but the protector of privilege. If he meant to call gentlemen the enemies of prerogative, because they were not like himself, the friends of a dark and secret band of advisers, who, sculking behind the throne, were the main-spring and source of attack upon the constitution, and of danger to the throne itself; if he meant, that because they objected to entrench upon the valued privilege of that House, and disdained to see the dignity of another insulted by a mean, gross, and scandalous system of transacting public business by whispering; if he meant, that because they were not ready unnecessarily to increase the standing army by every possible expedient, they were therefore enemies to the prerogative of the Crown, they were truly so, and they gloried in confessing it. They avowed an eternal hostility to a prerogative so exercised. But, that they were enemies to the just prerogatives of the Crown; to those prerogatives which the constitution had wisely placed in the hands of the chief magistrate and the exercise of which tended equally to the honour of the sovereign and the happiness of the subject, he denied. He was ready, however, to bear testimony, that the right hon. gentleman was a friend to the prerogative of the Crown, indefinitely and implicitly, but he did not see how he could therefore arrogate to himself the praise of being also a friend to the privileges of the people; he whose whole political life had been occupied in attacks upon those privileges; he who commenced his career in the situation which he then held by a violent infringement of the rights of that House; an infringement which was followed by a direct attack on the freedom of election. Under the cover of a bill of commercial regulation, his next measure had been an attack upon the privileges of the people of the sister kingdom and this was followed by an experiment on the temper of the people here, by assisting in the scheme of a wild projector to change the constitutional defence of the kingdom from a navy to fortifications. Every part of his administration had manifested a tendency to support and enlarge the prero-

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gatives of the Crown; and in particular, he had used every means to augment the standing army; fictitious wants had been pleaded, unknown dangers had been suggested; and he had but too successfully added to the alarming military force of this country, both at home and in all its distant colonies; and too successfully, also, endeavoured to bring others than the mere military within the bounds of the Mutiny Act. These were the proofs he had given of his friendship for the privileges of the people. Such had, nevertheless, been the confidence of that House, that, with all these things, they had professed to have faith in his good intentions and in his regard for the constitution. He, for his own part, was most sincerely desirous that it should be proved, that the right hon. gentleman had a true and zealous regard for the constitution. To justify the admiration that every one felt for his endowments, it was a matter to be eagerly wished, that a gentleman of such brilliant talents should sincerely regard that constitution, to which such talents as his were peculiarly adapted, and under which alone they could fully display themselves. His friends talked much of his conscience, and, fruitful in excuses for the errors of his system, never failed to say, that he was debauched into every iniquity and folly that he committed. An hon. gentleman, speaking of him, had said, that in this Bill he was sure that his conscience had been surprised. It was bad advice and not wicked intention, from which this Bill had originated. He was not unwilling to give ear to this apology. He hoped it was true, and he partly believed it. He did not hesitate in agreeing with his admirers, that he had people about him very capable of leading him wrong. It was his original crime that he had connected himself with those from whom no good counsel could come; and lamenting as they all must do, the consequences of his want of vigilance, and the misfortunes of his connexions, it was earnestly to be wished, that his conscience would either keep a better look-out, or that he would keep better company.—Mr. Sheridan said, that Mr. Fox had on this occasion obtained a most complete triumph. Every part of his India system was now demonstrated to be just, and in nothing was it more truly justified, than in the attack which the right hon. gentleman had made on him that night. In the very moment that he was vehemently arraigning his right hon. friend for the bill which he had brought into the House four years ago, a bill lay on the table, which went ten times farther in all the points which he at the same time affected to condemn. There was something very singular in the whole of the right hon. gentleman's conduct on this occasion. He had begun his speech with talking of the magnitude and importance of the Bill on the table; of that very Bill which he had originally stolen in upon the House, without explanation, without speaking of its dangers, and without giving any notice of its magnitude. He had procured it to be read a first and second time: but being caught in the fact, and finding his arm arrested; seeing, that all sides had taken the alarm, he then came forward, and talked of the danger with which the Bill was pregnant, humbly requesting that it might be checked and guarded in every possible shape. The Bill, with all its terrors, its arrogance, and its evils, came first, but the checks came behind, by way of rider; prerogative foremost; the constitution in the rear. The right hon. gentleman's great argument was, that his Bill did not, like that of Mr. Fox's, assume the patronage of India. That it did not take the power of appointing was certain, and never denied; but while it conveyed the power of recalling in all cases where the appointment was not made with their approbation, the only difference was, that the patronage in the one case was possessed under cover, and without responsibility; in the other it was open and avowed. In all the great features of the present Bill, and in much more the present doctrines were the same as those which his right hon. friend had asserted in 1784. The great difference was, that this Bill added to the system a measure which he should soon explain, and which broke through every principle of the constitution, and was in every shape alarming to the people of this country.—But mark, continued Mr. Sheridan, the modest assumption of the Board of Control! The revenues of India amount to nine or ten millions a-year, and the Board desire that a Declaratory Bill may pass to give them the unlimited power, not only to collect, but to appropriate the whole sum as they may think fit. The only security was to be the virtue and integrity of the man. Was that a sufficient security? Any person capable of asking from an enlightened people so much power must be mad, and consequently not ca-

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pable of applying it with sound reason to a good end. But, said the right hon. gentleman, judge of us by experience. Have we not chosen a lord Cornwallis, a sir Archibald Campbell, and a general Meadows; and can there be danger in trusting power in such hands? Arguing in that way, what did it impose on that House? That they were to fit every man out with power in proportion to his character. That was to be the slop-shop for Indian governors; they were to give to one man the flowing robes of imperial despotism, and to another the short skirts of limited monarchy. The constitution of England must not trust to such means of safety; and in arguing about principles, they must not think of men. He averred, that the Bill gave the Board of Control the power of appropriating the revenues of the Company to what purposes they pleased; and they might put 500,000*l.* at discretion into their own pockets or those of their friends. They had the power of uncontrolled corruption. They might subsidize the court of Poonah. They might take into their pay 20,000 Mahratta horse; they might annihilate the commerce of the Company; and all this they might do by means of this Declaratory Bill.—The Bill of his right hon. friend had been said to erect a monster unknown to the constitution, because lord Fitzwilliam and the seven commissioners were invested with certain powers. Compare the powers of that Board with the powers of this. Lord Fitzwilliam and the commissioners could not send forth a dispatch; they could neither declare war nor make peace in India; they could neither subsidize Poonah, nor entertain a body of Mahratta horse, without having the pleasure of the King signified through the medium of the Secretary of State. The Board of Control could do all this. They could declare war; they could make peace; they could enter into subsidiary treaties with the princes of India; they could collect all the revenues of the Company; and they could apply them to what purpose they pleased, without the consent of the King. Mr. Sheridan animadverted on what Mr. Pitt had said with regard to the Bill of 1784 not being made on a compact with the Company. He averred, that the whole of the Bill was made with the declared consent of the Directors. The minister had stood upon that compact, had pleaded their approbation as a matter of argument, and it was passed into a law clearly on the ground of compact and consent. But now the right hon. gentleman wished to violate the engagement, and to avoid the ignominy of having broken a solemn bargain. He should submit to the feelings of the House, whether what they had seen that day ought not to convince them of the error into which they had fallen, of acting upon confidence. The minister had at length taught them, that to suspect him was their duty, and they saw that it was only by so doing that they could faithfully discharge the trust reposed in them; for they saw, that not being able to accomplish his design, but being detected, he now came forward apparently desirous to receive counsel and embrace instruction.

Mr. *Dundas* said, that he did not assume any greater power at the Board than what belonged to an individual member; that he acted with men with whom he conceived himself highly honoured to act; and that his greatest pleasure was in the hope of ending his days in the consciousness of having had a share in the transactions of the Board in benefiting India. He contended, that the Act enabled the Board to provide for the peace of the natives, for the security of the Indian territories, for the payment of those creditors who had advanced their money in the moment of the greatest danger, and that after such provisions, there existed a considerable surplus for investment. Having sufficient powers for those good purposes, they wished for no patronage; and, therefore, he called on the House to prevent every degree of patronage existing in the Board of Control. It was impossible for the Board to order any disbursements from the India revenue but such as were lawful; were they to attempt to trample upon this salutary restriction, they would usurp powers with which they were not invested, and subject themselves to punishment. The Board had never interfered in the commercial transactions of the Company; they had confined themselves to the control of their revenues, their military, and their political affairs. He stated that the whole of the Company's debts would be paid by the time their charter expired, and was happy in being able to assure the House, that the Company's sales had greatly exceeded all prior sales, that there was a rapidly growing surplus, and that the territories of India were in the best possible train of management.

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Mr. *Burke* congratulated Mr. Dundas upon his anxiety to share the honour of the Board of Control with his colleagues. Never till that moment had he been so liberal. But it was an old observation, that the poor were the most generous, and that the less a man had to spare, the more liberal he became. The right hon. gentleman, finding himself hard pressed, had become suddenly bounteous, and dealt out full shares of the merits of the Board of Control to his surrounding colleagues. He was somewhat like the unjust steward, who, when apprehending he should be turned out of place, bad him that owed a hundred pieces to set down fifty, and so on, giving his master's property away, to secure him a good retreat. The right hon. gentleman had long been the Atlas of the Board, but found the weight too great for his shoulders, and called for another and another Hercules to relieve him. He was a man of great liberality; he acted in direct opposition to Hotspur, who would "pluck bright honour from the pale-faced moon, and dive into the bottom of the deep," to secure money to himself. The right hon. gentleman would do these heroic deeds for his colleagues, whom he had called from the Pay-office, and with whom he was willing to share glory, but not a word about sharing the signet, or those soft easy cushions which were to make his old age comfortable. He congratulated the House that confidence was exploded, and that that vigilance which had long been buried, was again called forth. The minister had honestly come forward and stated his distrust of the conduct of his colleagues, and had called for the watchfulness of the House on their transactions. He commended the right hon. gentleman's penitence, and conceived that he ought to be clothed in sackcloth and ashes. He begged it to be remembered, that the caution did not come from that side of the House, but from the minister himself, who, no later than Wednesday, had recommended, nay bullied the House into confidence; that minister now called for the suspicion, the vigilance, and the watchfulness of the House; and a call of that kind from the right hon. gentleman, must come with a hundred times the force with which it could have come from any of them. The right hon. gentleman did every thing with an air of pride; he even scattered his ashes abroad with dignity, and wore his sackcloth as if it were a robe of purple. He said he was confident the Bill gave patronage, he was confident it was near the hearts of the hon. gentlemen opposite, since it never was out of their mouths, patronage being their constant theme. Every argument that had that day been advanced in support of the Bill before the House, proved the excellence of Mr. Fox's Bill. The present Bill was the gentle regimen prescribing Bill, it took from the Company their breakfast, their dinner, and reserved the right of giving away what portion they chose of their supper. He wished to ask those gentlemen, whether, when they brought in their Bill, they had come forward, and honestly stated that Mr. Fox's Bill took too much, and all that they meant to take was only the military power, the management of their politics, the management of their revenue, and as much as could be taken of their commerce? The question then necessary to be put to the House was, in whose hands was the power best to be intrusted? In the hands of seven of the most respectable men in the kingdom, or with the shreds of office? The public at that time were unfortunately infatuated, deceived, hurried on to madness, to the overthrow, to the destruction of the high priest of their liberties, when exerting himself at the public altar in their support. The leaders of that mob were a thousand times worse than lord George Gordon, who was now suffering in his Jewish gabardine. Had his mob destroyed the Bank, the country's wealth might have rebuilt it; had they destroyed St. Paul's Cathedral, the piety of the nation would have rebuilt it; but the mad mob of 1784 destroyed the House of Commons, destroyed their best friends, destroyed what might never have been recovered; but from the appearance of that day, he hoped the mischief might be done away, and he now expected to see the House of Commons rise, like a phœnix, regenerated from its own ashes. He wished to appeal to the House, at this time, hoping the fumes of new rum in hot stills had evaporated; he wished to ask at this moment, when the opinions of heated young politicians might have also passed away, whether in 1784, the Bill now alluded to was in any manner opened like to the present declaration of its meaning? He wished it to be understood, that he was a friend to the Company possessing what they called their rights; but he was an enemy to those rights being taken from

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them by doubt, by fraud, and by the grossest hypocrisy.

Mr. *Baring* denied that the Directors had ever meant to refuse to pay the arrears of the army. He complimented Mr. Sheridan on the exposition which he had given of the power originally vested in the Board of Control, and declared he verily believed that the power of applying the revenues had been a negative and not a positive affirmative power. If it was as the right hon. gentleman himself stated it to be, and he might, as he thought proper, form a treaty with any of the Indian princes, or subsidize a body of Mahratta horse, the Board of Control had been vested with powers of the sword and the pen, to an extent, at once indefensible and unknown in any other country.

Mr. *Rolle* declared himself a friend to the Bill of 1784, and likewise to the Declaratory Bill. He drew a distinction between the Bills of Mr. Fox and Mr. Pitt, and reprobated the former. He was glad that Mr. Pitt had proposed to bring in two clauses to provide farther checks against any danger to the constitution; but had not those checks been provided, he should have given his vote for the Declaratory Bill as it was originally introduced.

Sir *Edward Astley* said, he had voted against Mr. Fox's Bill, and had stated, that he did so because he thought it violated the charter of the Company, assumed their rights, and was a dangerous innovation on the prerogative of the Crown. He had openly avowed this, as he ever liked to act plainly and honestly. With regard to Mr. Pitt's India Bill, he had voted for it, because he was given to understand at the time, that it was the reverse of the former Bill, and contained nothing violent. From the Declaratory Bill now brought in, he found that there was very little difference indeed between the two Bills. The one was almost as bad as the other. He declared he had not withdrawn his confidence from Mr. Pitt; he liked the right hon. gentleman, but he wished he would keep better company; in other words, he had a distrust of his colleagues. From what Mr. Dundas had said in Wednesday's debate of applying the revenues of India to the entering into a treaty with different Indian powers, and hiring a troop of Mahratta horse, he thought any such powers in the highest degree improper to be trusted with any board. Sir Edward complained of the right hon. gentleman's having spoken three hours and a half on Wednesday; declaring that he thought it a very unfair monopoly of the time of the House. He never had heard any thing more dull and unentertaining. In consequence of such monopolies in speaking, a country gentleman, who rarely rose to take up more than five minutes of the time of the House, could not get an opportunity to say a single word. He had listened attentively to all that had been said, and the result was, that the Bill appeared to him, in every point of view, to be pregnant with danger to the constitution.

Mr. *Bastard* said, that the speech delivered by Mr. Pitt that day, had made a very favourable impression on his mind, and he did not know whether before the debate was brought to its close, he might not think it right to vote with him. The right hon. gentleman had said, he meant, when the report was received, to move that the Bill be recommitted, and would then move an instruction, with a view to bring up two new clauses when the Bill should be in a committee, and to receive such other clauses as should be tendered. Now, he advised him not to do things by halves, but to put an end to the present Bill altogether, and bring in, not a declaratory, but a new enacting bill, for the constitutional purposes that he had mentioned. No good could come from any alteration of the Bill already introduced. Experienced nurserymen and gardeners, when they wished to graft, always looked out for a fine, healthy stock, and never made choice of one that had got into disgrace. The Bill under consideration was an old, obstinate crabstock, and roses might as well be expected from thorns, as that the Bill would prove a good one, if new clauses of the nature described were grafted on it.

Mr *Powys* said, that he also had voted against Mr. Fox's Bill, and must vote against the Declaratory Bill, because it put a construction on the Act of 1784, that was not the true sense of that Bill.

Mr. *Young* supported the Bill, and declared he had ever understood that the Bill of 1784, gave full power to the Board of Control, to the extent of those specified in the Declaratory Bill. He produced a story from Cicero's oration on the Agrarian law, which, he said, struck him as peculiarly apposite to Mr. Fox's Bill and his commissioners. He stated the case to which he was alluding, and it proved to be that of a tribune, or, as Mr. Young said,

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a sort of Roman secretary of state, who proposed a law in the Forum, and appointed a number of commissioners under its authority, who were to manage the sale of all the Pontine marshes and other districts.

Mr. *Pulteney* recommended Mr. Pitt to follow Mr. Bastard's advice, put an end to the present Bill, and introduce a new enacting bill, which would afford the Company, who were the parties chiefly interested, a full opportunity of being heard against it, if they should wish to be so heard. He advised him to be particularly careful to make the power of the Board of Control solely negative, and to provide such checks in his new Bill, as should completely guard, not only against the patronage of India devolving to the Board of Control, but also against any Indian patronage devolving to the Crown.

General *Norton* said, he had voted for Mr. Pitt's Bill in 1784, but he had no idea at the time, that it would bear the construction now put upon it by the Declaratory Bill. He bestowed encomiums upon the characters of the officers appointed to the command of the four new regiments, and congratulated the Company's troops upon having men to serve under, who would prove themselves so well entitled to command.

Major *Scott* said:—Mr. Speaker, I freely own that I felt an uncommon anxiety to catch your eye this night before the House is entirely exhausted, because I have acted in situations respecting the officers of the East India Company which I think entitle me to request the indulgence of the House for a few minutes. I had the honour, Sir, to be selected by my brother officers in Bengal as one of their body, who was empowered to represent their grievances in this country, to those who might be supposed capable of procuring for them the redress they solicit, and to which I contend they are justly entitled. Some weeks ago, when four additional regiments were appointed for service in India, I attended at a very numerous meeting of our officers; I had the honour to be appointed a member of a committee, which was assembled for the purpose of representing the grievances of our officers to the Court of Directors, and to solicit their assistance on the present critical occasion. I do assure you, that neither at that general meeting, nor at the subsequent meetings of our committee, did we presume to agitate the propriety of sending four regiments to India at all: but we did contend that if those four regiments embarked before the prayer of our petition was granted, the service in India would be thrown into the utmost confusion. I desire, Sir, to return my sincere and hearty thanks to an hon. gentleman (Mr. Sheridan) for the very handsome, candid, and generous manner in which he has stood forth the advocate of the Company's officers: but I should have been still more obliged to him, had he not made one concession, which operates to our disadvantage, and to the truth of which I do not in any degree subscribe. The hon. gentleman has given us credit for many soldier-like qualities, and for the most strenuous exertions in the public service; and he has said, that where irregularities and acts of violence and rapine have been committed as we find them detailed in certain articles sent by this House to another place, they are more to be attributed to the vice of our government than to the fault of our officers. I desire to rescue this House from any imputation on this subject. I do deny that this House has accused the Company's officers of violence, rapine or disorders of any kind; and no farther shall I presume to touch upon articles which are sent to another place, than to say that they must be confirmed or refuted, not by oratory, but by evidence. I also think myself fully entitled to repeat to this House what I have already said in it, although a prosecution has been ordered to be instituted against a publisher, for repeating that fact, which I so plainly stated in my place. I affirm, therefore, Sir, that this House passed thirteen articles, and sent them formally to the Lords, without any one member reading a single line of one of them except myself and the right hon. gentleman who brought them in. I am therefore fully warranted in saying that the House has no concern in those articles, though they have been sent up to the Lords in their name. It may seem extraordinary to declare, that the boon which the right hon. gentleman has mentioned, and which was most graciously intended by his Majesty as a reward to our officers is in fact the circumstance of all others which we feel as the most mortifying and distressing. We are fully sensible of the King's gracious intentions in the offer made to the Company to admit 78 of their officers into his service: but the peculiar construction of our army renders any attempt to transfer a part of our officers

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to his Majesty's service, a most pernicious and dangerous measure; but when the question of rank is determined, we shall receive with the sincerest gratitude that boon which our sovereign has so graciously been pleased to offer us. The right hon. gentleman (Mr. Dundas) said, in the last debate, that if our senior captains refused to take commissions in the King's service, it only proved the superiority of our own service. I desire to expose the injustice and fallacy of that argument, without wishing to give offence to the hon. gentleman, who, I am sure, is a friend to our cause. I hold in my hand a list of the Bengal army, by which it appears that our lieutenant colonels have been officers from twenty-seven to twenty-four years: our majors from twenty-three to twenty years; and the list of captains is as follows: thirteen have been twenty years in the service; twenty-five, nineteen years; twenty-nine, eighteen years; thirty-seven, seventeen years; and six, sixteen years. Twenty-six gentlemen of the list of 1772 are still lieutenants, and in all probability they will not be promoted to the rank of captain for two years; so that gentlemen will at once see how exceedingly slow the rise in our service is, notwithstanding the extent and long continuance of the late war. In this situation, the order of the Company would arrive for taking a certain number of captains from our list, and appointing them to his Majesty's service. A superficial observer would say, where is the hardship? the commission is offered to the senior captain, and if he refuses, what right has he to complain? And the right hon. gentleman's argument was a little in this style. But mark what the senior captain will say—"I have been twenty years in the service; I command a battalion of sepoys, 640 rank and file: it is in fact the command of a colonel. I have fought and conquered at the head of my corps; I am attached to them, and they are devoted to me. Besides, I must be promoted very shortly to a majority, and in his Majesty's service I have no chance of farther promotion for many years." All who command battalions will argue in this way, and so will those who are near the succession to the command of a battalion: but after travelling down the list more than half way, we shall come to a gentleman who will argue the point upon other grounds. He will say, "I am far from a battalion, and I shall grow grey in the service before I am a field officer; I have a little money, and some interest at home; I will gratefully accept his Majesty's commission, and hope in a short time to acquire the next step in his service." What will be the consequence? From the instant he accepts the commission, he commands every captain in the Company's service, and may in the next week command in the line that officer, in whose battalion he had some time before been a subaltern. Sir, this is a grievance so new amongst us, that it cannot, it will not be endured. Already we feel it, by the selections which have been made, and which I will now proceed to detail. A respectable friend of mine, captain Kirkpatrick, has been selected by the Directors, upon very justifiable grounds, as they conceived, and recommended to his Majesty for a company in colonel Musgrave's regiment. This was done in compliment to earl Cornwallis. But it is extraordinary that captain Kirkpatrick is the seventy-fifth captain in our list; and it is still more extraordinary that he was expressly charged by his brother officers, in conjunction with myself and some others of superior rank and greater consequence, to represent their grievances on this subject of rank to the Directors. Is it therefore possible, that such a promotion can be endured in Bengal? I will trouble the House with but one instance more. In 1779 captain Hartley commanded the rear division of the Bombay army at the unfortunate affair of Tilligong, and kept his ground in a very gallant manner against a desperate charge of the Mahrattas, until reinforced by major Frederick, from the line. After his return to Bombay, captain Hartley was promoted at once to the rank of lieutenant colonel. This promotion spread a general alarm, and was peculiarly mortifying not only at Bombay, but to the senior officers of general Goddard's army on its arrival at Surat. Appeals were transmitted to the Directors, who, as a remedy for the evil, ordered, that every officer originally senior to colonel Hartley, should on his promotion regain his proper rank. Colonel Hartley came to England, and by way of getting out of this dilemma, the Directors applied to his Majesty to appoint Mr. Hartley lieutenant colonel of colonel Abercromby's regiment; and after this point was carried, he set off over land for India, and will on his arrival command every lieutenant colonel in the Company's service. These things are so new amongst us, where every man acquires his rank by service,

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and deems it when obtained a sort of freehold, that I am sure the King's ministers need only to be informed of the extent of the mischief, in order to take measures to redress it.—I hope I have proved, to the satisfaction of the House, that the officers in the Company's service do not solicit redress for imaginary hardships. They command troops so well disciplined, that they have received the applause of every general officer who has reviewed them. Their army is regular, well regulated, and numerous, amounting at the three presidencies to near 70,000 men; and they request to rank with his Majesty's officers who do duty with them, from the dates of their respective commissions. Whether this point shall be effected, by his Majesty graciously condescending to grant them brevets generally, as some of our officers have at times received them, or whether any other mode shall be adopted, I do not presume to inquire. I am truly happy that the right hon. gentleman has declared that it is determined to settle this point; and I beg leave to assure him that no palliative will do; either we deserve all we ask, or nothing.—I am exceedingly sorry, that any expressions which dropped from gentlemen in this House in the last debate should have given rise to invidious remarks and distinctions out of doors. For myself, and for those with whom I have acted, I do declare, upon my honour, that we reprobate every idea of distinctions. We are the loyal subjects of a gracious Sovereign. We have jointly fought the battles of our country in India; and we have preserved an empire to Great Britain. Whatever temporary hardships our officers sustained, I am sure it did not depress their ardour for the public service: they looked forward with confidence for that relief which is now about to be afforded them: and there were no jealousies nor heart-burnings while an enemy was in the field. The army in the Carnatic was composed of King's troops, Hanoverians, and the Company's troops of Bengal and Madras. If there was any emulation amongst them, it was a generous emulation, and highly advantageous to the service during the war. All suffered the greatest hardships; and equally shared the fate of war. That ferocious and implacable tyrant, Tippoo Sultaun, made no distinction between King's and Company's officers. Both, when taken prisoners, were confined in dungeons, loaded with fetters, and murdered. Were I to select from a variety of brilliant actions which peculiarly mark the late war in Asia, the most brilliant of the whole, I should certainly give it in favour of the King's service. The defence of Mangalore by major Campbell was certainly the most striking event of the war. That gallant officer commanded the fortress of Mangalore, and preserved it for several months, until a truce took place, against a most determined enemy, at the head of 60,000 men, a prodigious train of artillery, assisted by able French engineers, and a French regiment. To oppose this force, flushed as it was by the recent capture of general Matthew's army, and the presence of their sovereign, major Campbell had not six hundred Europeans. He had extensive works to defend, and breaches to repair after the fortress was invested. Worn down by almost incredible fatigue, this young officer survived for a short time only his gallant defence of Mangalore. Nor could his character, high, noble, and deservedly high as it was in India, defend him against the attacks of base and infamous libellers in England, at a time when it was the interest of a party to traduce every man who had served his country in India. Major Campbell was charged with putting men, women, and children to the sword, at the storm of Onore; that he spared neither age, nor sex, nor beauty. Fortunately for the honour of this officer, a letter arrived last year from Bombay, signed by all the surviving officers upon that service, and who were released from prisons in Mysore, refuting, in the clearest and most unequivocal terms, this scandalous misrepresentation. And no circumstance in the course of my life gave me more pleasure, than having had the honour to move, at a general Court of Proprietors, that this full refutation, signed by above fifty officers, should be printed, and circulated throughout the whole kingdom, as some reparation to the memory of a man who was an honour to his country. General Goddard marched an army across the continent of Hindostan, and in two successful campaigns retrieved the British character in Guzzerat. Colonel Pearse marched an army from Bengal to reinforce sir Eyre Coote, and effected a junction with that general in spite of all Hyder's attempts to prevent it, though at the head of 100,000 men. Colonel Popham (now a member of this House) took the strong, and, till then, the impregnable fortress of

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Gualiore. These last services were performed at the head of native troops, under the command of British officers. Let it not be supposed, therefore, that the slightest jealousy can subsist, after this only ground of difference is removed. As to the propriety of sending the four regiments to India, it is a point which the right hon. gentleman has promised to detail hereafter. I am clearly of opinion, that this is the proper time to augment our European force in India; and when it is considered that in Bengal we have a country of such large extent, and of such infinite importance, to protect and to defend—I am clearly of opinion that we ought to have at least 5,000 Europeans there; and therefore the reinforcement is most desirable.

Sir *Richard Hill* termed the Bill of 1784 the mild hand of friendship, and compared it to Mr. Fox's, which he called the rapacious hand of plunder. He avowed himself a friend to the Declaratory Law, and took notice of the character for good nature and mildness, which Mr. Sheridan had, in the last debate, given of Mr. Fox. To that character he professed himself ready to subscribe, as he had in a vein of pleasantry often attacked the right honourable gentleman, who had with great good nature let it pass.

Mr. *Windham* laid down the different distinctions between ordinary acts of parliament and declaratory laws. He said it had been maintained by all wise writers on the constitution of the country in general, and the constitution and powers of Parliament in particular, that the legislative and judicial functions of the latter ought to be kept as separate and distinct as possible. Indeed, Parliament ought to exercise its judicial powers as rarely as possible, because great and obvious confusion must necessarily arise, if Parliament frequently made a law, and then followed it up with another law to expound what was the meaning of the first. But, most of all, declaratory bills upon the case ought to be avoided. Nothing could be more dangerous. The present was a declaratory law upon the case; and upon a case too, where the parties chiefly interested contended strenuously, that the Act of 1784 had not been either stated or understood to bear any thing like the construction that the House was now proceeding judicially to declare.

The *Solicitor General* admitted most of the principles laid down by the hon. gentleman, though he must differ with him as to the application of those principles. That it was highly necessary for Parliament to keep its legislative and its judicial functions separate and distinct, was undoubtedly true; but it was equally true, that Parliament ought not to act judicially unless in cases of an urgent nature, and where the fair construction of an act of parliament could not be obtained without considerable loss of time, and serious inconvenience. This applied in the present case; for disputes, it was clear, had arisen between the Board of Control and the Court of Directors about the construction of an act of parliament, respecting which, however, he was free to declare he had never entertained any doubt. With regard to a declaratory law upon the case, he admitted, that where a question of private right arose, there a declaratory law upon the case ought never to be passed, because no public mischief could arise, from the delay of waiting to try the question of right in the courts below; but the matter was widely different, when a question of state was the question in dispute. A variety of obvious and cogent reasons would necessarily present themselves in every man's mind to prove the propriety of this distinction. Having settled this part of the subject, he proceeded to take some notice of what had been said in the debate, relative to the power of control and application with respect to the revenues of India, that had been vested in the Board, having been contended to be a negative and not a positive or affirmative. He adduced arguments to prove, that a negative power would not have enabled the Board to have proceeded with any effect, in those regulations which they had so successfully enforced. He admitted, however, that in some instances a negative power might operate affirmatively; and put the case, had the power in question really been a negative power, and the Directors had proposed any particular mode of application of the India revenues, which had not appeared to the Board of Control to be expedient or wise, they naturally would have put their negative upon it, and in that case, their power of amendment and alteration would have effected all that could have been effected had they possessed the most undeniable affirmative powers.

Mr. *Lorraine Smith* said, that Mr. Pitt's speech appeared to him to be peculiarly

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calculated to inspire confidence and beget esteem. He was sorry, therefore, that he could not give his vote for bringing up the Report; but it would be inconsistent with the tenour of his parliamentary conduct, if he were on any occasion to give his consent to any one stage of a bill, the object and end of which was, to vest powers in the Board of Control, alarming to the constitution, and of an extent far beyond those possessed by any one branch of the Executive Government.

Mr. *Fox* remarked, that pledged as he was to oppose the present Bill in all its stages, he trusted the necessity of his now claiming the attention of the House, would be obvious without a comment; nor could it appear to him necessary to say a single syllable by way of apology for rising. He then entered upon the merits of Mr. Pitt's East India Act. There were two points in which it should be generally considered; first, Whether it was what the Chancellor of the Exchequer asserted it to be at the time of passing it—a bill to regulate the government of India, to protect the territories there, and to preserve inviolate the charter of the East India Company? Secondly, Whether it was what it was now asserted to be; and if so, what would be its effect? To the first part Mr. Fox would apply but a short observation; for if it had been what the minister on passing it thought proper to call it, then it would have been inefficient, nugatory, and useless; for he had always asserted, and did now assert that it was impossible to preserve entire and inviolate the charter of the East-India Company, and to save our territories in India eventually from ruin. This was his opinion when he introduced his own Bill; this was his opinion at present; and, therefore, he should be a consummate hypocrite were he to avow the contrary. He introduced his Bill with this avowal. It produced alarm, and was in another House rejected. What means were used to obtain that end, he should not now, although satisfied on that particular, enter into the detail of. He believed the best panegyric ever pronounced on his Bill, had just been delivered by the Chancellor of the Exchequer himself, with those round and finished periods of fluent diction, and that happy arrangement, for which he had always been eminently distinguished.—It is with peculiar pleasure (said Mr. Fox) that I have heard—for I must have been gifted with extraordinary feelings indeed if I had not been peculiarly gratified at hearing—a complete and able defence of almost every principle of my own Bill from the mouth of the right hon. gentleman: at hearing almost the whole of that measure maintained and supported with an irresistible eloquence, and in a flow of language peculiar to himself. It will now no longer be clamoured through the country that I am the violator of chartered rights, or the usurper of the powers of the India Company. Had the right hon. member acted in the same open and fair way in 1783, all that abuse which I have sustained, all that clamour that has been excited, all that popular phrenzy which disgraced the kingdom from one end of it to the other, never would have been provoked. He would then have said, "You take away the Company's charter; there I am with you; the flagrant abuses the Company have made of it could not have been put an end to unless you did so! You suspend all their rights; there again I am with you; the suspension is necessary for their salvation! You assume the complete management and control of all the Company's affairs civil and military; and the disposition and application of all their revenues; in all this you do right: such an assumption is requisite to give effect to your system! But you put these powers into the hand of a board of commissioners appointed by parliament; there you do wrong, and there I am not with you. I contend that a board of control, appointed by the Crown, is the proper board to entrust all these powers with." Upon that single point ought to have rested the whole dispute, for that is the only essential difference between the two Bills.

The popularity which that right hon. gentleman had obtained in consequence of his conduct towards the East-India Company, would surely no longer be peculiarly his own. All sides of the House had at last agreed, and it was pretty generally understood by the public, that an India bill must be had, which would take the charter of the East-India Company out of their sole and exclusive dominion. The right hon. gentleman would now, he trusted, desist from using those sonorous clamours against the violation of the sacred and chartered rights of the East-India Company; those calumnies and that abuse of men whose principles were too violent and daring to be entrusted with the management of the complicated and de-

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ranged state of our extensive Indian territories; for if he should still continue those clamours he would become himself the prominent character—the leading feature of his own calumny—the very hero of his own tragedy; for he had not only taken away, or now intended to take away, the charter of the East-India Company, but had done it with violent hands, and had given it to persons of all others the most unfit to retain it.

To the first part or description of the right hon. gentleman's Bill, namely, that it was designed to save India, and to preserve inviolate the charter of the East-India Company, sufficient had been said. Agreeing, therefore, with the right hon. gentleman, that the charter should be by some means taken away; agreeing that the flagrant abuses of the Company made that violent step necessary; agreeing that the state of India required the immediate interposition of Parliament, and that a suspension was necessary; that the management, civil and military, of the affairs of India, should not be entirely in the hands of the Directors; that the revenues and commerce should be under some control; agreeing, he said, in all this, the question would naturally turn to a simple fact—Into what hands will you entrust the affairs of India? This led Mr. Fox into a view of his own Bill. It was true he had suspended the charter of the East-India Company; it was true he had changed the conduct and the management of their affairs, and taken them out of the hands of the Directors; it was also true he had avowed this publicly at the time of his Bill passing that House. Had he thought proper to conceal his meaning, and, like the Chancellor of the Exchequer, have pretended by any equivocal clause to preserve the charter, he should have met with no opposition. By his Bill, the conduct of India was to be entrusted to persons immediately under the control of Parliament, to whom they were declared to be responsible; and this, if it added to the power of any part of the legislature, gave it where the use of it was least to be dreaded. He should not detain the House any farther on the merits of his own Bill; for, indeed, it had been well explained already, and its principles could never appear to better advantage than when compared with the Declaratory Bill which the minister wished to be accepted by that House.

Mr. Fox then entered into the merits of the present declaratory system, as he termed it, for bill it could not be. It assumed more power and patronage than, he hoped, any bill in that House would ever create; it assumed the whole, sole, and exclusive right to apply the revenues of the East-India Company; it gave this entirely to the Crown, for it gave the sovereign the right of calling on a private company of merchants to defray the expenses of his military force; it was calculated to ease the half-pay list at the expense of the East-India Company, instead of the general expense of the whole kingdom; it gave power, patronage, and all its concomitant advantages, to the Board of Control, without annexing to it that which was the first and best of all checks against despotism—responsibility. It had been said that there was no patronage by the present Bill. What, no patronage by the absolute and uncontrolled disposal of eleven millions a year! Would ministers add insolence to their absurdity? Would they dismiss decency of assertion, and expect the House to forget the general and obvious maxims of common sense, that power and patronage were inseparable; that patronage and influence were inseparable; and that influence and corruption were, in a degree much to be lamented, also inseparable? Away with such gross, such stupid, such palpable absurdity!

He then came, he said, to that part of the right hon. gentleman's speech which he perceived had a conciliating effect at the moment upon the minds of some of his auditors. He had said, "such is my desire that this measure should be fully investigated, and that all points should be guarded that may seem to tend to increase the prerogative of the Crown, that let any member of this House state his objections to the present Bill, as to the tendency to patronage, let him produce a clause by way of check against the influence he fears; and from whatever quarter of the House, from whomsoever it comes, that man who produces to me such a measure, in whatever language he may convey it, whether with severity to myself personally, or with the mildness of kind and temperate advice, is substantially my friend." These words, taken literally, and without their context, which had been carefully concealed, would appear bewitching; but as the minister had chosen to hide his own meaning under a fair and specious promise, which in fact meant nothing,

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Mr. Fox said he would take off the veil, and show the House its real meaning. It was this: "Give me the absolute uncontrolled power of India in my hands, and then you shall have as many checks as you please—a check upon absolute power—a check upon uncontrolled dominion." This was exactly like the right hon. gentleman's conduct on another view of the present question, namely, when he first claimed the whole revenue of the East-India Company, and gave them the surplus—the surplus after the whole was taken! the remainder—a blank!" Mr. Fox declared that he should complain if he was charged with stating monstrous cases; for nothing was supposed too monstrous against his own Bill. Indeed, the fact was as he had stated it. The Board of Control might apply the whole of the revenue, under colour of paying for the protection of the territories. It had been asserted that the Board of Control had not the right of nominating officers. That was true; but had they not the disposal of the revenue, and would it not be absurd to suppose that they could not, in a mild, insinuating manner, recommend?—and was it difficult to believe that the recommendation of such persons would be noticed? We knew too well the difficulty, nay, the impossibility of obtaining any nomination whatever, without a connexion with, and the countenance of, men in power. It had been always so, and would continue for ever so: the very nature of all government admitted of no other mode of regulating its concerns. So much for their possessing no right of nomination. The Board of Control had the astonishing right of levying war in India without the consent of his Majesty: and, therefore, they could never want an excuse for applying the whole of the revenue towards the defence of the territories. They had the whole power and authority of governing India upon the very worst of all terms, as applicable to the interest of the Company, and of the state. They had the power without the responsibility; for should any officer who held the command in India act in such a manner as to destroy at once the whole of our possessions in that extensive portion of the globe, the Board of Control were not responsible; for they had not formally, although they had in effect the nomination of such an officer; in short, it was scarcely possible to name a power more absolute, and of a tendency more destructive.

He next took a view of the commercial point which the present question involved. It had been asserted that the Board of Control did not interfere with the commercial interests of the Company. If he had been truly informed, this assertion was false in fact: for he had been told that no commercial dispatch could be sent to India without the signature of the Board of Control. He desired ministers to correct him if he did not state the fact truly. He paused for an answer; but no answer being given, he took the fact to be as he stated it—and said that there was an end then to the boasted liberty of the commerce of the East India Company. He came to the point of law arising on the present case, and insisted that a declaratory bill could not constitutionally pass to supply any omission; for it would be declaring on that which never existed. He must now touch upon the last and greatest charge that had ever been exhibited against him, in the warmth even of any speech delivered in that House. A right hon. gentleman had said, that he had by his India Bill endeavoured to pluck the crown from off the head of the Sovereign. Such language, if it could be applicable to any man or set of men in this kingdom, was more descriptive of the ambition of others on a different side of the House than of himself. When had he acted, or conducted himself, as if he might be supposed to have the seeds of disloyalty in his mind? When had he endeavoured to check the just prerogatives of the crown? He knew too well their value, and he had no occasion to wander out of his own disposition, by endeavouring to destroy the just prerogatives of the Crown. Ministers were determined to give him sufficient employment in watching their daring attempts to exercise prerogatives destructive of the interests and subversive of the rights of the people; and in preventing, if possible, their creating new prerogatives. There were, indeed, some prerogatives which derived their value from being rarely used, and while we heard pompous and declamatory speeches in defence of the prerogatives of the Crown, did not let us at once forget the privileges and the rights of the Commons. It was not by endeavouring to destroy the one, that we were to preserve the other: they ought to go on in harmony and unison; and when they clashed and were discordant, then, indeed, should we be in real danger. Those who had poisoned the royal ear, by

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insinuating that there was but one side of the House of Commons loyal to their Soverign, were themselves, in fact, enemies to the constitution. The minister, he said, had forfeited the confidence of the House; he had been detected in a fraud upon it; he had been detected in bringing in a bill under false pretences; he had been detected in endeavouring to pass, hastily, a bill to declare what never existed; but, when he found the House awake, and determined to stop his career, he then assumed an air of candour, and wished gentlemen to bring forward their objections. Much better would it be for the right hon. gentleman at once to confess his error, withdraw his Bill, and bring in a new one, adequate to all the purposes of saving India, and also the commercial interests of the Company.

The question being put, That the said report be brought up, the House divided:

Tellers.

YEAS	Mr. Neville - - - Mr. Steele - - - -	182
NOES	Lord Maitland - - - Sir James Erskine -	115

The Report was then brought up, and the Bill was ordered to be re-committed on Monday.

March 10. The House having again resolved itself into a committee on the Bill,

Mr. *Pitt* rose to state the object of the new clauses, of which he had given notice. He had drawn them up, he said, in conformity to the general ideas which he then threw out. But, in order to give every gentleman full time to consider them, he would propose, that after the clauses had been moved, and read a first and second time, they should be received directly, and the farther consideration of the report be postponed till Wednesday. He then recapitulated the objections which had been made against the exceptionable parts of the Bill, and which it was the object of the new clauses to remove. First, it had been argued, that if the commissioners for the affairs of India were empowered by the Act of 1784 to send out troops to India at the expense of the Company, they might, by an improper exercise of that power, establish an army in India without the consent of Parliament. To prevent any possibility of such abuse, it was his intention to propose a clause which would operate as an effectual check on the Board of Control. It was a clause enacting, not only that an account of the British forces in India should be annually presented to Parliament in the usual form of an estimate, but that no troops shall in future be sent to India without the authority of a solemn Act of Parliament. This, however, was not to be understood in all possible cases; because it was only meant as a general limitation of the powers of the Board; for, undoubtedly, it would be absurd to suppose, that in a case of emergency there should be any check on the executive government, to prevent them from sending troops to the East more than to the West-Indies, or to any other part of his Majesty's dominions. In either case, they certainly would be amenable to parliament for their conduct, which alone would determine on the necessity or inexpediency of any measure of that nature, according to the circumstances of the case.—The next objection which had been stated as dangerous to the constitution, was the possibility of the commissioners perverting the application of the revenues of India for the purposes of creating undue influence, by directing any increase of salaries, or perquisites of their servants abroad; or in the improper distribution of gratuities, to the prejudice of the true interest of the service. With respect to those, he was extremely desirous of providing every check, and for that purpose he had prepared two clauses. The first was, to prohibit any increase of salary to the Company's servants abroad, unless sufficient reasons were given, and submitted to the consideration of Parliament by the Board at least thirty days before their dispatches were to be sent out for such increase. The other clause declared, that it shall not be lawful for the Board to order and direct any gratuity to be paid to any servant of the Company, unless it shall originate in the Court of Directors, and afterwards gain the sanction of Parliament. This was also to be understood with some exceptions. These were the principal specific provisions which he intended to move the committee to agree to. But there was another clause which he would also bring forward, though indeed the conduct of those who now acted as commissioners for the affairs of India, seemed to render it in some measure unnecessary. He begged leave to remind the House, that his right hon. friend (Mr. Dundas) had in the last session, voluntarily brought a complete investigation of the state of the Company's

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affairs in India, and of the conduct of the Board of Control under there view of Parliament, and had then given notice of his intention of annually calling the attention of the House to the same object, by which means gentlemen would have an opportunity of inquiring into the administration of the Board, as trustees for the Company and the public. In pursuance of this plan, it was his intention to propose to make it a standing order of the House, that accounts of the revenues of India, and the application of the same, distinguishing them into classes, shall annually be laid before the House, within fourteen sitting days of the meeting of Parliament after the 1st of March. These were all the clauses which he had to propose to the committee, and he trusted they would obviate every objection which had been made to the Bill.

After a short conversation the clauses were read a first and second time, and the Report was ordered to be taken into further consideration on the 12th.

Debate in the Commons on the Debtors and Creditors Bill.] March 11. Mr. *Burges* said, he rose to perform the promise he had made to the public, of bringing forward a proposal for a modification of the laws relating to debtors and creditors. He proposed to do this by moving for leave to bring in a bill; for, as his own ideas were distinct and settled on the subject, he wished to save the House the trouble of going into a committee, for the purpose of proving propositions self-evident, and unfortunately too generally acknowledged, to be disputable even by those who profited by them. That the subject to which he wished to turn the thoughts of the House, was of the greatest importance to a commercial and flourishing nation, he conceived would universally be admitted; it was equally true, that the abuses of which he complained were a scandal and disgrace to any country; they called aloud for the interposition of the legislature, and for an immediate correction. Palliatives had frequently been administered; but experience had taught us that partial remedies were insufficient. It was the duty of the House to inquire into the subject; to search the evil to the bottom; to meet it in its true colours, and to eradicate those grievances which bore equally hard on the debtor and creditor; which exposed the former to unnecessary vexation, and which defeated the remedy intended and expressly given by the law to the latter.—He said, that he could not flatter himself with the hope of totally eradicating the abuses of which he complained. They prevailed too universally for an humble individual like himself to aspire to their correction; they pervaded the whole system and the process of the courts; they were protected and patronized by the judges and all the officers of justice, who felt an interest in their maintenance, which doubtless would be exerted in their defence. It was, however, his duty, as an honest man, and as one tolerably well informed upon the subject, to attempt the overthrow of the most notorious and hurtful of these abuses, which he now proposed to do, without courting approbation on one hand, and without dreading censure on the other.—He did not wish to insinuate, that the evils of which he complained originated altogether from the law itself; that, in most respects, was good enough: it was the abuse of the law, originating from, and supported for, the interests of the judges presiding in our courts, and of the various practitioners in them; these persons had for ages struggled to extend their jurisdiction, and of course to increase their profits. Every effort had been used, and every art had been employed, to bring the practice of the courts to a pitch of oppression, which individuals had long felt, of which all ranks and conditions of mankind complained, but from which lawyers derived emoluments superior almost to credibility. The practice of arresting the person of a debtor had been the main engine of this extension and of these profits. Having very thoroughly considered the subject, he was satisfied that such arrests were, in many instances, contrary to the law of the land; though he would not go so far as to say that, in all instances, they were illegal; there being cases, where undoubtedly they had a legal sanction. It was however most indisputable, that the Court of King's Bench had no authority for using such a process in civil causes; that a positive act of Parliament had been made in the reign of Charles 2, for the avowed purpose of prohibiting that court from using such a process; that this Act had been, within a year after its being passed, most scandalously evaded, and that a process had been ever since persisted in, which had created a revenue so enormous, as almost to exceed belief. He had no doubt of being able to prove, were such proof

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necessary, that the places in the Court of King's-bench, which owed their origin to this usurped and illegal process, produced an annual revenue of 20,000*l.*; that, if they were now to be sold, (and they had often and very recently been sold) they would produce, at a very moderate estimation, at least 100,000*l.* He certainly did not attempt to engage with the whole of these abuses; but he confessed he meant, by his intended Bill, to restrain a part of these profits within more moderate bounds.

He would, with the permission of the House, open the grievances of which he complained, and state the principles on which he proposed to found a reform. The particular regulations which would be the consequence of these would best appear from a perusal of the Bill itself, should he be permitted to introduce it. The first grievance which he would mention, was the unlimited permission now given to a creditor of arresting a debtor. The process was no more than a loose affidavit of the debt; on which a writ was immediately issued, by which a defendant was arrested, and on which he might be, and often was, imprisoned for a long time, without the existence of a cause of action. The law originally had provided, that no process should issue, unless the plaintiff found security for the due, speedy, and effectual prosecution of his demand. This had degenerated into a practice no less iniquitous than generally known. Two obliging gentlemen, John Doe and Richard Roe, were now constantly employed as the standing securities of all plaintiffs. These persons, ever ready to oppress, were more tardy when called upon for satisfaction. Like the god Baal, they were eating, or drinking, or sleeping, or somehow so much engaged, as never to be forthcoming when a defendant wants them. The consequence of this abuse was the most enormous oppression. A defendant, not owing a shilling, was often imprisoned for months before he could supersede an action; and as often imprisoned for more than a year and a half, before he could take the benefit of the Lords' Act. Of the existence of these abuses, Mr. Burges produced some remarkable instances. One of a Mr. Robson, who was arrested for an imaginary debt of 1100. The parties concerned in this transaction were afterwards convicted at the Old Bailey, and sentenced to five years hard labour on the Thames; but one of them, by name Roberts, was at this moment a practising attorney in the Court of King's-bench. One Parrott, being desirous of getting rid of his wife, for the purpose of marrying another woman, employed one Sambridge, an attorney, to arrest her in her maiden name. When she was in the spunging-house, Sambridge endeavoured to prevail on her to sign a renunciation of her rights as a wife. On her refusal, she was committed to Newgate, where she lay eleven days. A gentleman, accidentally hearing of her case, brought the matter before the Court of Common-pleas, where it was thoroughly canvassed. He held in his hand a copy of the record. A third instance was of a lieutenant Williams, who took out a writ to recover the sum of 45*l.* and put it into the hands of one Laver, a sheriff's officer, in Chancery-lane. A few days after, calling on the bailiff to know the event of the business, he found himself detained as a prisoner, at the suit of one Johnson, for upwards of 120*l.* On his objecting that he knew no such person, and owed no such sum, he was waited upon by the same Sambridge, who offered to drop farther proceedings, if he would withdraw the writ he had entrusted to Laver. This Mr. Williams refused to do, and was in consequence committed to prison; where he lay 193 days before he could obtain a supersedeas. Sambridge is now a practising attorney. The remedy which Mr. Burges proposed for this grievance, was the substitution of real securities in the place of Doe and Roe; to the amount of 100*l.* if the demand exceeded that sum; to the amount of the sum indorsed on the writ, if it was less than 100*l.* This would cover the costs; and, in a great degree, put a stop to so iniquitous a practice, without throwing too great a difficulty in the way of an honest creditor.

Another grievance arose from the permission given to a creditor of detaining his debtor in prison, without assigning any cause, on the payment of a groat a day. From that part of his intended Bill which related to the regulations of gaols, it would appear necessary that a creditor should, on suing out a writ, agree to allow his debtor fourpence a day for his subsistence, from the commencement of his imprisonment; which payments the creditor should be allowed to add to his original debt, and which the debtor should be bound to discharge.—By the present system, a creditor having sued out a *capias ad satisfaciendum*, was precluded from suing out a writ to affect his debtor's property; though,

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having sued out a writ of the latter species, he might afterwards sue out a process against his person. The reason of such a distinction it was not easy to discover. The distinction itself was certainly a main cause of the iniquity practised by many debtors, who lived in a gaol, defying their creditors, and consuming their property; in which they undoubtedly were not discouraged by the gaolers, whose profits from such practices were enormous. Mr. Burges instanced the King's-bench prison; where the marshal made an annual profit of more than 3,000*l.* To remedy this, and to give creditors the full means of inforcing payment which they ought to have, he proposed to allow a plaintiff to sue forth a *capias*, and an *elegit*, or *capias* and a *fieri facias*, at the same time. This would effect the purpose; and the preceding regulation of a sufficient security on suing out the writ, with the other regulations he meant to propose, would, in his opinion, prevent it from becoming an engine of oppression.

To the Lords' Act Mr. Burges stated two principal objections. Its operation was confined to debtors in execution, and it extended no farther than to those creditors who actually held a defendant in execution. He expatiated on the mutual hardships arising from such a system both to debtors and creditors; he showed the various frauds and oppressions arising from it; and he proposed, that the Lords' Act should be extended to debtors owing more than 200*l.* who at present were its sole objects; that debtors in mesne process, as well as those in execution, should be allowed to avail themselves of a cession of their property; that such cession should operate upon all creditors, subject to such regulations as would be found in the Bill; the most material of which was, that a release from imprisonment should not operate as a discharge of the debt; but that the future effects of a debtor should continue to be liable, until the whole of the debt should be satisfied. The present practice of compelling a debtor to find bail, to double the amount of the demand, was another enormous grievance; and though it was the general practice of the courts, it certainly was decidedly against law. As the only avowed pretence for such a practice was, the necessity of finding a security for the costs, he proposed, that in future a defendant should be required to find bail in the amount of the sum indorsed on the writ, with the addition of 100*l.*, which in most cases would be more than sufficient to indemnify the plaintiff for his expenses. A very general practice prevailed where a man found himself likely to fail, of summoning creditors, and applying to them for a letter of licence. This was a feeble remedy, and in general inadequate to the purpose of relieving a debtor, and indeed it most frequently ended in his absolute ruin; some angry and dissatisfied creditor arresting him, or suing out an hostile commission of bankruptcy. Very fortunately the law of Scotland afforded a sufficient remedy; that was now adapted to the circumstances of this country, and would make part of the intended Bill. The remainder of the Bill, Mr. Burges said, consisted of regulations for the internal management of gaols, so far as relates to debtors. These would best appear from the Bill itself, and therefore he would merely say, that they went to an amendment in point of sobriety, order, and decency; to an abolition of fees, and a substitution of salaries to gaolers. Mr. Burges concluded with moving, "That leave be given to bring in a bill for the relief of debtors, for the more speedy and effectual payment of creditors, and for the regulation of gaols, so far as relates to imprisoned debtors."

Sir *William Dolben* seconded the motion. He said, that the evils stated by his hon. friend were notorious to all men, and required immediate redress. He believed that the Bill proposed would go a great way to redress those evils, as he knew his hon. friend had taken much pains with the Bill, and been assisted by some very eminent men of the law.

Mr. *Orde* rose to ask the hon. gentleman whether he had received the sanction of any great lawyers to his Bill.

Mr. *Burges* answered, that it would be vain in him to mention the names of those respectable characters who had favoured his Bill with their approbation. It had been honoured with the favour of several eminent men, and by one high character, whose name he did not think himself at liberty to mention: but if he did, he was sure it would meet with the greatest respect from the House. He had applied to another person of high rank in the law for the honour of his sanction; but this great luminary, so far from giving it, abruptly refused even to look at the paper.

Leave was given to bring in the Bill.

Debate in the Commons on the Bill to

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license Sadler's Wells.] Mr. Ladbrook having brought in a Bill to enable his Majesty to grant letters patent for the licensing of the performance of certain public entertainments at Sadler's Wells, the same was read a first time.

Mr. *Sheridan* said, that he had consented to the Bill being read a first time, because it was really his wish that the House should have an opportunity to consider the matter fairly, and to understand what was demanded from them. With regard to the petitioners for the Bill, and the allegations stated by them in respect to the large price paid for the purchase of their shares of the property of Sadler's Wells, by Messrs. Wroughton and Arnold, if the House could, with any sort of consistency, do any thing to prevent their sustaining a loss, no man in that House would go farther than he would; he wished them to be dealt with as liberally and as handsomely as possible, because he was ready to admit, that the case of Sadler's Wells stood upon very different grounds indeed, from that of the Royalty Theatre. That was a scheme set up upon false pretences, and supported by a conspiracy of justices of the peace, to defeat the law, which they were bound, by their oath to execute. The present application came forward in a decent manner, and according to the practice he had ever wished to be pursued, when he knew more of what was going on with respect to the Theatres than he did at present, having long since entrusted his interest in them to the management and care of others in whom he had reason to place a confidence. Mr. Sheridan wished such an application to be liberally considered, and that the legal monopolists might not stand on their rights too strictly. He had ever been, and he trusted he ever should be an enemy to any thing like oppression in any matter great or small; and, on the present occasion, he confessed that the apprehensions of other people interested in the rights, supposed to be attacked by the Bill in question, went beyond his own; but it was, however, to be remembered, that those apprehensions related to a property, upon which, taking the two winter theatres only, a sum little short of 200,000*l.* had been embarked. He felt it therefore his duty to endeavour to protect those rights according to their ideas of the injury they might sustain, and not according to any more indulgent way of considering the subject, which he might himself have entertained. Mr. Sheridan then proceeded to argue on the nature of the present application. The proprietors of Sadler's Wells had declared in their case, that the cause of their application for a bill to enable his Majesty to grant them a licence to continue the entertainments of Sadler's Wells as heretofore, was, that "the proprietors of the winter theatres had lately instituted suits at law not only against the last newly erected theatre, but intended to commence suits and prosecutions against all others indiscriminately." To his own personal knowledge, that inference was wholly unfounded, and the proprietors of Sadler's Wells knew it to be groundless. There was no intention to proceed against them, or to molest them in any way whatsoever. In another instance, also, the case of the proprietors of Sadler's Wells was fallaciously stated. They told the House that they came there only to ask that they might be legally empowered to continue their performances as usual. That was not the fact; because what they asked for was a monopoly, as appeared clearly from an examination of their case. There was some degree of unfairness also in their mode of reasoning against others, who stood in a similar predicament. Speaking for themselves, they said, "that doubts may arise, whether in strict construction of law, their performances might be, strictly and minutely, within the letter of their licence;" but when they spoke of the riding schools, the circus, and the new set of competitors, they stated them as performing in defiance of known laws, upon the authority of musical licences only; whereas their own licence contained not a letter of power more than the licences of their adversaries which they reprobated; the only difference being, that the one was granted by the Surrey justices, and the other by those of Middlesex. From this it appeared, that their object was monopoly, and not licence; and the House could grant them no relief according to their own statement, unless they put down all similar places, and shut their doors in future against all similar applications. Their claim to the preference might or might not be well founded; but he could not but think that places of similar amusement under the Surrey licences would afterwards come with a pretty strong case to Parliament for an equal indulgence, and that it would be an odd reason to give for refusing their requests, that the proprietors of Sadler's Wells had the merit of

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transgressing the law first, and had therefore received a protection from the legislature, to which those who had only followed their example were not entitled. This, however, was a matter for Parliament to consider. If they chose to grant the preference, and to establish the monopoly which the present Bill aimed at, and as a matter of regulation and police to stop there, the proprietors of the winter theatres would have little to complain of; for he took it for granted, that certain alterations would be made in the Bill, and that no part of the new powers would be suffered to entrench in the least on the rights of the winter patents, either as to season or the species of performances. Mr. Sheridan concluded with observing, that the winter theatres had a right to complain a little of those who had brought in the Bill. The petition had been before the House nearly two months, and yet the Bill had not been brought in till just at the last moment, close upon the commencement of the Sadler's Wells season, in order that its near approach might be used as an argument, and in order that it might come into discussion at a time when the winter proprietors could not so well be heard against it by their counsel, if they should judge that measure necessary. He should on that account, notwithstanding the surprise that had been attempted on the House, move, "That the second reading of the Bill be postponed to the 4th of April."

Mr. *Ladbroke* answered, that if the second reading was put off till the 4th of April, some of the most profitable part of the Sadler's Wells season would have elapsed before the Bill could be decided upon. He therefore moved to insert the words "Tuesday next" in the motion by way of amendment.

Sir *Herbert Mackworth* expressed his surprise at the argument of the hon. gentleman, who had considered the present as an application for a monopoly. There was not in the whole Bill one word that would support such an inference. Nor could he see how the winter managers could be at all injured by the Bill passing. If he thought it in the least likely, he would be the last man to support the Bill, as he well knew the very great expense at which those theatres were kept open for the amusement of this great metropolis. He therefere never would give his concurrence to any measure likely to prejudice their interests; but the authorizing the proprietors of Sadler's Wells to continue to perform the same entertainments as they had been used to perform for many years past, struck him in a very different point of view. Sadler's Wells contributed very essentially to the amusements of the town; though, certainly, its entertainments were of a subordinate rank to those of the winter theatres. He contended strenuously against the argument, that a monopoly was desired, and said, the hon. gentleman had reasoned solely out of the case of the proprietors of Sadler's Wells, and not from the Bill itself. Had he reasoned from the Bill, his argument must have assumed a different shape. With regard to the observation, that there were other places of entertainment on the same footing as Sadler's Wells, and that therefore, if the House agreed to the Bill for licensing one place, they must necessarily agree to future bills to license others, it might as well be said that, because the magistrates licensed one public house, they must license a great many more in the same district. The magistrates were bound to exercise their discretion, and to license just as many public houses, and no more, in different parts of the town, as should to their judgment appear necessary for the accommodation and entertainment of the inhabitants of those different districts. In like manner, the legislature would exercise their discretion, and license Sadler's Wells, if they thought it right without making it a precedent for licensing other places of similar entertainment. Sir Herbert mentioned the modest nature of the petitioners application, and said, as they desired a license under such restrictions, it was scarcely possible that they could injure or interfere with the winter theatres, and therefore he saw no manner of occasion for the patentees to be heard by counsel against the Bill, and as the commencement of Sadler's Wells season was so near at hand, he considered it as rather cruel to delay the second reading beyond the ensuing Tuesday.

Mr. *Fox* said, it was highly indecent to contend in that House, that a bill was necessary to pass with all possible dispatch, because it was essential to the interests of those who applied for it, that it should do so, after the parties had themselves been the cause of a very considerable delay, and had kept off the discussion of the Bill till just on the eve that it would appear necessary to have it passed. The petition for the Bill, according to the forms of the

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House, must have been before the House nearly two months; why was not the Bill brought up sooner? With regard to the hon. baronet's being surprised that his hon. friend should rather have argued from the case of the proprietors of Sadler's Wells, than from the Bill itself, where those who introduced a Bill, did not advance an argument in its support, it was natural to look to the case of the parties, to see what arguments they themselves grounded their application upon. If there was no occasion for the winter managers to be heard by counsel, he supposed that the winter managers would not desire to put themselves to that expense; but, it was clear, from what had been said in their behalf, that they did think it necessary to be so heard, and the House must give parties leave both to think and to act for themselves, as they were, undoubtedly, best able to judge what was the most requisite to take place upon their account. He hoped, therefore, that the original motion might pass, being determined to take the sense of the House upon the question, if it were opposed.

The House divided for the second reading on the 4th of April: Yeas, 48; Noes, 39.

Debate on the Clause of the Mutiny Bill for incorporating the New Corps of Military Artificers.] March 12. The report of the committee on the Mutiny Bill was brought up; and, on the reading of the clause for incorporating the newly-raised corps of military artificers,

Mr. *Sheridan* said, that he conceived the object of it to be so important, that he was determined to oppose such an innovation in every stage, and to take the sense of the House concerning its alarming tendency. He stated his objection to the adoption of the new principle of expediency and economy—the more dangerous because the more plausible—instead of the old principle of defence and actual necessity. The Chancellor of the Exchequer did not seem to have a right feeling for the fundamental principles of the constitution. He had been too apt to lend himself to every project of his colleagues, and to think his office was merely that of furnishing defences of the measures of other men cloathed in fine language. The present measure had been brought forward upon the specious pretence of economy, a plea that ought ever to be cautiously admitted, when under it the greatest evils might be sustained. If the present measure should be adopted, it would be laying a ground for the most alarming consequences. The army was increasing in every part of the globe at the moment it should seem most unnecessary, and, at the moment when it was stated that the glory of Great Britain was in its utmost splendour, and its power unrivalled; in proportion as peace was declared to be secure, the country was called on to increase its expense.

Mr. *Pitt* contended, that the clause was good, as it provided workmen to do work better than it would otherwise be done, and at a saving after the proportion of 2000*l.* in 22,000*l.* These were both, therefore, desirable matters; and it was also a wise measure, as it would render those who acted as artificers useful in time of war. The only question was, whether any actual inconvenience would exist from the measure, and whether there could result from it any dangerous consequences to the constitution.

Sir *W. Molesworth* considered it as a dangerous precedent, and as the beginning of a system which could not be too narrowly guarded. They ought to repel innovation *in limine*, and as it was a system that might go to the shipwright, and to every other department of government, it met his decided reprobation.

Mr. *Hussey* was concerned to discover that the vigilance of the country was not roused on a question of the greatest constitutional importance. He could not avoid deeming the paltry saving of 2000*l.* a year, an insufficient reason for putting 600 Englishmen under military law. It was an improper exertion of such a law, and a dangerous precedent.

Sir *C. Gould* spoke in support of the clause.

Col. *Fitzpatrick* opposed it as unnecessary, and unconstitutional.

Mr. *Pelham* expressed his alarm at this measure, which he conceived to be unconstitutional, and declared his determination to oppose it, as by the plea of economy the House might be deluded, and the only means of checking expenditure defeated.

Mr. *Marsham* said, that if the House agreed to put 600 Englishmen under martial law for the paltry consideration of 2000*l.* a year, they would be devoid of those feelings for the constitution, for which they ought ever to be most vigilant.

Mr. *Steele* said, that the artificers had,

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in fact, been voted in the estimate before Christmas, and that the present clause could not therefore be considered as new matter before the House. If government had any design of smuggling the measure through the House, they would not have made any amendment, as then that body of men would have been included under the old clause, rendering all persons belonging to the train of artillery, amenable to military laws.

The *Surveyor of the Ordnance* contended that it was impossible by any other means to keep so useful a set of men together. He urged the necessity of extending military law to them, to prevent their desertion of the public service in time of war, and argued against the possibility of danger to the constitution, were the House to adopt the measure.

Mr. *Courtenay* said, that he never had heard of any difficulty in raising of artificers in time of war. He saw no necessity for the measure, and particularly for gunners and master-gunners being under the law, who were never so considered before, but were liable to dismission if they acted improperly.

Sir *C. Gould* said, that both gunners, and master gunners had been tried by court martials.

Mr. *Fox* said, that the clause must operate to the surrender of part of our liberties. When a minister came into the House to propose either an increase of the excise, or of the military laws, it was his duty to make out an exceedingly strong case for so doing. In the present instance, the only one given for the deprivation of the liberties of individuals, was the saving of 2000*l.* per annum. The present question when considered as going to the deprivation of the rights of individuals, became at once important and alarming.

The question was put, and the House divided: Yeas, 114; Noes, 67.

March 13. On the order of the day for the third reading of the Mutiny Bill,

Mr. *Hussey* objected to the clause which respected the new corps of military artificers. He wished to know if they had already been enlisted and attested as soldiers. If they had not, it was a very violent and arbitrary measure to say to these men, you must now enlist as soldiers, and be subject to military law; otherwise we shall turn you adrift. It was a paltry consideration in ministers to infer, that because this scheme would save the nation 2000*l.* a year, we should therefore agree to deprive 600 men of those franchises which they now enjoyed, in common with their fellow-citizens. He therefore wished that this clause should be suspended, as he conceived it to be a consideration of very great importance to the constitution of the country.

Mr. *Pitt* reminded the hon. gentleman, that the question before the House was, whether the Bill should be read a third time? when that was done, then would be the proper season for the hon. member to come forward with his motion.

Mr. *Sheridan* considered the clause as involving a very important constitutional question, and therefore wished it to be postponed until the morrow, that gentlemen might have an opportunity of considering it with that attentive deliberation which it really merited. The question put by the hon. gentleman whether the artificers had yet been enlisted and attested as soldiers, had not been answered.

Mr. *Steele* said, that all the artificers were intended to be enlisted, and that some of them were already embodied.

Mr. *Sheridan* said, that if they had already been embodied, those who were the authors of that measure had been guilty of a very illegal act, for he understood the recruiting orders had been issued previous to the meeting of Parliament, and, consequently, they had taken upon them to raise a body of men without the consent of Parliament, and without having stated any reason for a measure which could only be justified from the strongest political necessity.

The *Secretary at War* observed, that the King, by his prerogative, certainly had a right to raise troops, subject afterwards to the sanction of Parliament.

Mr. *Fox* admitted that, in time of war, the King might raise troops without the immediate consent of Parliament, and even on the alarm of war, the House had always been disposed to consider it sufficient reason to justify the raising of such a body of troops as the exigency of the occasion might require, of which the House would afterwards judge, approve, or condemn accordingly; but he denied, in the most direct terms, that in time of peace, the King could constitutionally exercise any such power, or that the Executive Government could be warranted, after the alarm of war had subsided, in directing any number of troops to be levied, on the faith of a subsequent act of

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parliament, and, far less, that they could legally raise a corps which was new to this country, and for which they had not even the implied approbation of any former act. Some gentlemen had stated the advantages of such a corps of artificers in our garrisons abroad. For his own part, he reprobated every attempt to introduce into this country the military establishments of any garrisons which were not immediately under the protection of the British Legislature.

Mr. *Pitt* denied that there was any intention to surprise the House into this measure. On the contrary, the warrant for recruiting the corps had been laid upon the table before the Ordnance Estimates were voted; they had been raised upon the same principle with all the new levies, a measure which the apprehension of war had justified, from a liberal interpretation of the King's prerogative.

Mr. *Fox* contended, that no interpretation of the King's prerogative could justify the countenance of a measure which had originated on the alarm of war, after that alarm had subsided.

Sir *C. Gould* asserted the right of his Majesty to levy troops on the faith of their being afterwards sanctioned by Parliament,

The Bill being read a third time, the Speaker informed the House, that it was now the time to move any amendment on the Bill.

Mr. *Hussey* then moved, that the clause for subjecting the artificers to military discipline be left out.

Mr. *Sheridan* could not avoid reprobating the dangerous doctrine laid down by sir Charles Gould. If it was true that the King could raise any number of troops without the consent of Parliament, or, what was the same thing, not voted by Parliament, he was then independent of Parliament as long as he had money to pay those troops. Mr. Sheridan denied that any such power could be exercised by the King on constitutional principles. He maintained that every man who exceeded the number limited by the Mutiny Bill, did not come under the Mutiny Act, nor, consequently, under military law. He took notice of the singular manner in which the warrant directed the men to be attested, that if they were not found to be good carpenters, masons, bricklayers, collar-makers, miners, &c. of which the duke of Richmond was to be the sole judge, they might be reduced at his pleasure from ninepence to sixpence per day. It was stated also, in the warrant, that those men were to be employed on the fortifications. Considering the noble duke's passion for military projects, the House ought to be watchful of every opportunity which he might embrace of gratifying his favourite pursuit, as he would no doubt employ these 600 men on a principle of economy, as he did the convicts.

Sir *Charles Gould* observed, that every man who did enlist, whether under the authority of the Mutiny Act or not, was subject to be tried by military law. Were the soldiers themselves to be judges of the law? If this were once admitted, it would open a door to every species of disorder.

Mr. *Fox* contended, that the lowest soldier had a right to judge of the tribunal by which he was to be tried. If he was not included in the number limited by the Mutiny Bill, he might refuse to be tried by military law; and it was as much his right as any man's in that House to appeal to the laws of his country. If the doctrine that day laid down by the learned gentlemen were admitted, the Bill of Rights was virtually repealed. He trusted that such doctrine would never be supported by the Chancellor of the Exchequer, and much more did he wish that it should not be countenanced by those who might one day be called on to sit as judges on the lives and properties of their fellow-subjects.

Mr. *Pitt* agreed in the general principles laid down by Mr. Fox, but defended the measure of raising a corps of artificers subject to military law, which neither violated the principles of the law nor the constitution.

Mr. *Fox* observed, that though no man could entertain a doubt of his private regard for the noble duke at the head of the ordnance, yet the principle of subjecting so many men to his caprice was of that tyrannical nature which every man must abhor, and which he trusted the House would not countenance.

Mr. Hussey's amendment was negatived without a division. The question was then put, that this clause stand part of the Bill; and the House divided, Yeas, 142; Noes, 70.

Debate on Mr. Fox's Motion for the Repeal of the Shop Tax.] Mr. *Fox* rose to make his promised motion for the repeal of the Shop Tax. He observed that it was not his intention to take up much

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of the time of the House in going over the arguments formerly urged against the Tax. Of those arguments every member of the House was in complete possession, and they would now be recollected with additional weight, as that which before might have been considered by some as a sort of hypothetical reasoning, had now been confirmed by experience. The original argument against the Tax was, that it was not a general tax which affected every member of the community equally, but a partial and oppressive tax that bore only on a particular body of men. In answer to this, it had been urged, that the shopkeepers would be able to levy the amount of the tax on their customers, and by that means shift the burthen from their own shoulders to those of the consumer. Experience had proved the complete fallacy of this argument, and shown that the shopkeepers alone were affected by it, without a possibility of levying it on the community at large. If they could have done this, how were they to effect it? Undoubtedly, by raising the prices of their respective commodities in proportion to the amount of the Tax. But, had they done this? He defied any man to show that there was the least degree of coincidence between the Tax and the rise in the price of goods. If, then, there had been no rise in the price of goods, the Tax was borne by the shopkeeper only, and not by the community at large.—And yet, in this instance, although he was ready to admit that, in all cases, the opinion of the persons to be taxed was not a sufficient ground of objection to a tax, the opinion of the shopkeepers themselves was a strong and a convincing argument against the Tax. Had they been able to raise the price of goods to the full amount of what they paid, they would not have stopped there. They would have added something more; and having thus converted into a means of profit what they at first exclaimed against as a burthen, their complaints would have been at an end: they would have acquiesced in the Tax as a thing which was not merely a burthen, but an instrument in their hands of considerable advantage. Had this beeen the case? Had their complaints against the Tax ceased? Were they not now as loud and as earnest in their remonstrances against it as they had been at the first moment of its being proposed? The present application, the petitions on the table, and the motion which he was now instructed by his constituents, the inhabitants of Westminster, to make, showed that they were. And, would any person maintain such an absurdity as that they desired the repeal of a tax from which they derived a profit? —Such were the general grounds on which the impolicy and oppressive tendency of the Tax had been formerly argued. There were now some which might be considered as new grounds. In the first place, there was a petition from the commissioners appointed to collect the Tax, stating that they found from experience that it was a personal rather than a general Tax, and that they were unable to levy it, according to the tenour of the Act, without oppression to individuals. The case of the bankers was a striking proof of this. Had they any means of levying the Tax on their customers? Or were their profits greater now than they were before? Another reason was its total inequality, and that it fell heavier on the lower class of shopkeepers than on the more opulent, and that a man who had less business and a less capital, being assessed according to the rent of his shop, paid more than a man whose capital was larger, and his trade more extensive. It frequently happened that a person, for the sake of a shop to carry on his business, was obliged to take a large house, for no part of which he had any occasion but the shop. This person was assessed, not according to the rent of the shop, which was necessary to his business, but the rent of the house, which was not necessary. In answer to this objection it had been said, that such person might levy part of the tax upon his lodgers. But how was this to be done? The shop in the first instance was no recommendation to lodgers, but the contrary; and if he attempted to raise the price of his lodgings, his neighbour, who had no shop, and consequently did not pay the Tax, would effectually prevent him by a competition. In this point of view he challenged any man to show that it was not partial and unequal, and that, contrary to the operation of every wise and judicious tax, it did not fall heaviest on those who were the least able to bear it.—Mr. Fox said, he was in possession of some particular instances which he would state; and in what he was going to mention he desired to be understood as not meaning to say that the grievance was not felt in as great a degree in other places; for, undoubtedly, the unequal and oppressive tendency of the Tax was not local.

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In the city of Bath, a poulterer paid 19*s.*; in the same street, and but a few doors distant, another poulterer, whose capital was not near so large, nor his business near so extensive, paid 5*l.* 4*s.* If this man were to attempt reimbursing himself by raising the price on his small trade, what would be the consequence? His customers would leave him, and go to his neighbour, who, with a large trade, and paying a tax comparatively next to nothing, would be under no such necessity of raising his prices. In the same city, and in the same street, one silversmith paid 4*l.*, another 8*l.*, and a third 8*l.* 5*s.* The reason of this inequality was, that the Tax was not what it professed to be, a shop-tax, but a tax on houses!—Upon the whole, as the discontents concerning the Tax had gradually increased as the operation of it had been more generally felt, and as it was absurd to suppose that any description of men would persist in their complaints against a measure which they did not feel to be a burthen, it ought to be repealed, and some other less partial and less oppressive substituted for it. For, although he admitted that it was not a general rule for repealing a tax that there were complaints against it, yet, in such a case as the present, where the complaints were evidently well founded, as experience had shown them to be, it would much better become the wisdom and the justice of the legislature to listen to them, than to disregard them.—A report had lately prevailed, that it was the intention of the Chancellor of the Exchequer to propose either a repeal, or such a modification of the Tax as would obviate the objections which had been urged against it. This report he had never believed, and had always discountenanced, because, if it had been true, the right hon. gentleman, either when he gave notice of his motion or since that time, would have signified such his intention. If that had been done, he would have delayed his motion till he had heard what that modification was to be, or if it were done now, he would withdraw it. Mr. Fox concluded with moving for leave to bring in a Bill to repeal the Shop-tax.

Lord *Hood* seconded the motion, and hoped the Chancellor of the Exchequer would not pertinaciously adhere to a measure which experience had shown to be oppressive and unpopular.

Sir *Benjamin Hammet* said, that the Shop-tax, had been accompanied by another; a tax on maid servants. He had approved of that tax, because he knew the tax would be paid by those who kept them. He was convinced it would be paid by the members of that House. But the Shop-tax was not a tax of that description, and if the Chancellor of the Exchequer would give it up, he would, if called upon, propose another much more productive, which would be borne without a murmur, and prove beneficial to trade and navigation. If he could, in any degree, contribute to remove the burthen of so unequal a Tax from the shop-keepers, he should consider his life as not having altogether been uselessly employed.

Sir *G. P. Turner* said, that two motives induced him to vote for the repeal of the tax. First, his constituents had instructed him to vote for it. His next reason was, that he thought all persons ought to be taxed equally, and to pay according to what they possessed.

Sir *John Miller* said, that he had not, before this day, troubled the House with any opinion of his respecting the Shop-tax, nor should he now take up much of their time, for that indeed neither time nor talents were requisite to convince every unprejudiced auditor, that it was most clearly a partial and an oppressive tax. He said he had voted once, and but once, for this Tax, partly from being deceived, and thereby misconceiving what he now found to be the true principle, effect, and operation; and partly from a consideration of national embarrassment, which required, at that season, a strained revenue, however it could be raised, to encounter the public exigencies. The minister's difficulties had been very great; he had faced them with exertion and fortitude, and he had at this moment the happiness to see them completely subdued. Sir John called emphatically upon the independent gentlemen then present, who, like him, had been, heretofore deluded by specious statements, or by regards to public necessity, to come forward with him manfully upon the present occasion, and by retracting, to atone for their former error and unintentional oppression. From whatever point of view he looked at this tax, he declared he could discover in it nothing that was not highly exceptionable. If it was a personal tax attaching only upon a particular description of the community, (and that that was its true bearing he had not a doubt in his mind) there was not a colour of argument that could uphold it; no, not for an instant. If it was admitted that it

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could be levied upon the consumer, even in that case, it fails in one of the most essential qualities of a good tax, for a good tax is that which takes and keeps out of the pockets of the people as little as possible above what it returns into the public treasury. In a former administration, when a penny a bottle duty was laid on *Port* wine, how did the retail traders meet this Tax? Why, by raising the price of their wine in many places six-pence, in most places three-pence per bottle. Was not this a mischievous imposition upon the consumer, taking from him from 200 to 500 per cent. more than found its way into the public treasury? If the present Tax had admitted of being levied upon the consumer in the manner above stated in the Wine-tax, they would not, after three years experience of it, have had all the retail shop-keepers petitioning the House for its repeal. Very few, if any, shop-keepers can, and none that he knew of had yet attempted, by advancing the price of his commodities, to indemnify himself against the Tax; he was sure he never had paid the Tax in the price of the articles he had purchased. Would any gentleman assert, that he had paid the Shop-tax in the price of the articles he has purchased? Let him but demonstrate that to him, and he would vote with him that night. What bookseller, for instance, could raise the price of his shop-goods, without drawing down ruin and bankruptcy upon himself and his family? Would he not, in that case, be immediately undersold by those of larger capitals, of longer established and more extensive credit and custom, who can not only live but prosper upon profits so small as must be his inevitable undoing? The prime cost of the trader's goods, is the only true guide to their sale. Has the Shop-tax the most distant reference to this? Most certainly not; but very much the contrary. It was held out to be a Shop-tax, while in reality it was an additional House-tax. It had invariably fallen short of 120,000*l.* for which it was given in: and made no very distinguished figure amongst their articles of finance. Sir John asked, if any man in that House had a right to deliver over as victims to a tax any particular description of his fellow citizens, from which he takes especial care to see himself totally exempted? Is this just? is it honest? is it constitutional? Where, Sir, is the man amongst us hardy enough to risk the assertion. Sir John proceeded to state, that the advantages were obvious and indisputable, which the present Tax would afford the wealthy shop-keeper over his neighbour who traded upon a more slender credit or capital; which had a necessary tendency to prevent competition, and of course to promote monopoly, one of the most baneful principles that had ever obtained admission into a commercial country. Was there not a petition now upon their table, signed by 120 out of 150 of the very persons who are appointed assessors by commission, stating their experience of the oppression of the Tax, with their conviction, that the shop-keepers cannot raise it upon their customers by advancing the price of their goods. Sir John said, that he would cheerfully submit to bear his proportion of any imposition in whatever shape it should reach him, that should supply the place of the Shop-tax, which he asserted to be unjust, oppressive, and impolitic in the largest sense of these words.

Mr. *Pitt* said, that it was so painful to him to impose fresh burthens on the people, or to adhere pertinaciously to any tax already imposed when represented as oppressive, that he should be extremely ready to acquiesce in the repeal, were he not prevented by his duty to the public, which required that he should relinquish no means of putting the finances of the country on the most advantageous footing. The Tax, in his opinion, was not such as the complaints had represented it; and while he retained that opinion, he could not, consistently with his duty, give it up, whatever degree of unpopularity his conduct might incur. Those who supported, and those who opposed the measure had already been at issue on the principal question, that the Tax must operate as a personal tax, unless the shop-keepers had the means of levying it on the consumers. He had heard no argument to convince him that this was not in their power, or that they had not done it; for the rise on the price of any single article that would be sufficient to pay the Tax must prove so small as to be scarcely felt. That they had it in their power to make a greater rise, so as to derive a profit from it, he did not believe; for their mutual competition would always compel them to sell at such a profit as would defray the expense of carrying on their respective trades, and afford a reasonable overplus to maintain themselves. With less than this, no trade could be carried on, and more mutual

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competition would prevent them from exacting. The argument, therefore, that if they could levy the amount of the Tax they would levy more, would fall to the ground; and as to what had been said of persons being assessed according to their rent, and not the extent of their business, particular situations were considered as more advantageous than others; and if those who occupied such situations did not find their account in paying a higher rent for them, they would not on the same principle of competition continue to do it. No tax could be devised, that would not be attended with some inconveniencies, and to which some persons would not pay a greater proportion than others. That the Tax bore heavier on the inferior shopkeeper than on the higher had been considered, and provision made for it; because it was reasonable, that if the balance must incline to one side or the other, it should incline to favour those who were less opulent than their neighbours. The cases in which shops made no part of the house, he believed were not many; and if the customers of a shop that made part of a house should pay a small advance on any one article, he did not think they would leave it on that account, and a very small advance would be sufficient to make up the difference of the Tax. In one of the cases mentioned from Bath, the shop he understood was part of a large inn, and it was assessed according to the rent of the whole house; but it would not surely be a very great hardship on the shop-keeper to change his situation, and to look out for one not subject to such a disadvantage. Such were the general grounds on which he opposed the repeal. Of the commissioners who had signed the petition, some had qualified but lately, and many had never attended to the business at all. They were therefore very incompetent judges of the grievance stated in the petition to which they had put their names.

Alderman *Sawbridge* expressed his astonishment to hear a tax defended, the principle of which was abandoned. The Receipt Tax had at first given rise to complaints; but as soon as it was understood and felt to be fair, those complaints ceased. This had not been the case with the Shop-tax; but, on the contrary, the complaints against it increased every day.

Alderman *Watson* said, that the Tax was unequal and oppressive. Ship-yards and dock-yards had been considered as shops: even Greenland-dock had been stated to be a shop, on account of some things that were sold from it by the workmen. As well might a gentleman's barn be called a shop. Places where shops had been, but had been pulled down, were assessed to the Tax, because shops had once been there. He was going to pull down a church under an act of parliament, to obtain an opening, and some other houses with it, and he should not be surprised if the ground on which the church stood, was to be assessed, because shops had once been near it. The shopkeepers were a description of men entitled to the indulgence of the legislature; they did not merely supply the home consumption, but they contributed to diffuse our manufactures over the face of the globe.

Sir *James Johnstone* said, that the Shop-tax had put to death 3000 pedlars, and unless the repeal of it could effect their resurrection, it ought not to take place.

Sir *Watkin Lewes* said, that as evidence against the Tax had been produced at the bar, and none to refute that evidence, there was, *prima facie*, ground for repealing it.

Alderman *Newnham* said, that the Act was construed to extend to persons whom it was not meant to comprehend: dyers were made shop-keepers, and the barber who cut the hair from a porter's chin. A member of that House had formerly said that the bankers wished to be included in the Tax. He knew of no such desire on the part of the bankers: the Chancellor of the Exchequer had expressly declared, that it never was in contemplation to include bankers; and yet the surveyor of the Crown, under that very Act, had assessed the bankers. The commissioners, indeed, had given them redress; but the judges had decided against them: a very extraordinary decision he considered it to be; for no judge could ever convince him that he was a shop-keeper. He held the right hon. gentleman to be pledged, that the bankers should not be included; and he repeated the question which he had last year put to him, without obtaining an answer, whether it was his intention that they should be included.

Mr. *Pitt* replied, that it certainly never was his intention to include the bankers; but he could neither direct nor over-rule the decision of the judges; and if the hon. gentleman chose to bring in a bill for exempting the bankers from the Tax, he would not oppose it.

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Mr. *Mainwaring* wished to know from Mr. Pitt, if there was any probability that the circumstances of the country would soon permit him to abandon this tax.

Mr. *Pitt* answered, that although the revenue was in an improving state, yet he could never admit that as a sufficient reason for abandoning any tax, if the principle of that tax was such as could be defended.

Mr. *Fox* said, that he could not avoid considering with surprise the extraordinary manner in which the Chancellor of the Exchequer had argued that the Tax was paid circuitously by the consumers. The shop-keepers had universally declared, that they could not levy it on their customers; their customers said they did not pay it; of course, then, the shop-keeper received it, and the consumer paid it, without knowing any thing of the matter. He contended, that it was a tax, unequal both in a general and in a particular view: it was unequal with respect to the different streets of the metropolis; it was unequal with respect to the cities of London and Westminster; for Westminster paid more than London, and London more than all the rest of the kingdom.

The House divided on Mr. Fox's motion:

Tellers.

Yeas	Mr. Alderman Sawbridge Mr. Alderman Newnham	98
Noes	Mr. Solicitor General - Mr. Rose - - - - -	141

So it passed in the negative.

Debate in the Commons on the East India Declaratory Bill.] March 12. The House proceeded to take into consideration the Report of the East India Declaratory Bill.

Mr. *Powys* said, that the words of the Bill stated, that doubts had arisen respecting the powers of the Board of Control, as given in the Act of 1784. The Chancellor of the Exchequer had contended, that the Bill afforded a true construction and exposition of that Act: a learned gentleman had asserted the same, but confined himself solely to the legal construction of the Act. It had since been debated on different grounds, and various opinions had been maintained on both sides of the House. Mr. Powys briefly adverted to the sort of line which the arguments had taken, marking their several contradictions and inconsistencies. He particularly noticed the broad declaration of Mr. Rolle, that he had always conceived that the Act of 1784, would admit of the construction put upon it by the Bill in agitation, and mentioned that gentleman's having, when called upon to state why he was of that opinion, affirmed that he grounded it entirely upon the wording of a particular section of the Act of 1784; the construction of which, Mr. Powys said, had never conveyed to his mind any such idea. He expatiated on the nature of confidence and faith in a minister, observing that faith was the evidence of things unseen. Matters of so much importance as the powers which had in the course of the debates on the present Bill been claimed, ought to be clearly stated and defined, and not to rest on the interpretation of ministers on the one hand, or on the blind confidence of their friends and supporters on the other. The Board of Control claimed powers far beyond any which the Court of Directors had conceived them to possess under the Act of 1784. He should therefore move to insert after the words "impowered to," the words "exercise all and singular the powers and authorities, touching the civil or military government or revenues of the said possessions, which at the time of passing the said Act were vested in, or lawfully exercised by, the said Directors, together with such further powers as are by the said Act conferred on the said Board of Commissioners."

Mr. *Flood* said, that he agreed that the House ought not by any declaratory law to make any alteration in a previously existing compact, neither ought the East-India Company to be deprived of their chartered rights. He had professed himself a friend to chartered rights four years ago, and he was a friend to chartered rights still. The Act of 1784 did not deprive the Company of their chartered rights, but the present Bill did, and therefore it could not be a true declaration of the law of 1784. The charter of the Company had been guaranteed to them by different acts of parliament, and should be considered as sacred. To take it away upon light grounds, upon a problematical view, or upon motives of political expediency, would tend only to create confusion, and to induce the most dangerous consequences. He had approved of the arguments urged against Mr. Fox's Bill. The country had also approved of them. The same arguments, he conceived, closely applied to the present Bill. He wished

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to ask gentlemen, whether a difference existed between the two Bills sufficient to cause a great revolution in the nation? Whether such a difference existed as was sufficient to convulse the state to its foundation, and make the King start from his throne? Would any man have believed, when the Bill was brought in at the end of 1783, taking from the Company their rights, and the whole nation was convulsed, that a deprivation bill would be afterwards brought in and carried, without an alarm either of the Directors or the nation? Could any man believe, that in the jubilee year of the rights of the Company, they would quietly have submitted to a bill, if they had conceived it likely to go to a deprivation of their rights? It was evident, therefore, that no such suspicion was entertained at the time. The present Bill could not be a true exposition of the Act of 1784. The right hon. gentleman who brought it in, had argued the question thus: "You have given the Board of Control power, —you must give them responsibility,— and they cannot exercise responsibility without the right to apply the revenues of India." Could any man doubt that power was the result of responsibility, and not responsibility the result of power? But he would maintain, that the Board of Control had not responsibility; and for this reason: because they were destitute of power. If the Bill had been an enacting, and not a declaratory bill, he should have opposed it; not from indisposition to the right hon. mover of it, but from a sense of justice. The subject of the declaration was a subject in which the nation was interested. The charter of the East India Company was in the nature of a lease; the legislature was the landlord; the Company were the tenants. It was therefore unbecoming the justice and dignity of that House, so circumstanced, to interfere judicially. Would they confess themselves a party, and come to a declaratory law on their own case? Nor was it at all necessary. If a dispute had arisen as to what was to pay the troops in India, that might be adjusted afterwards. The Company's ships, he understood, were ready to receive them: the troops, therefore, might be embarked, and the question in dispute tried at law; and, if it could not be brought to an issue before the end of the session, the minister might bring in a conditional bill to provide against the event.—Mr. Flood spoke of the construction of the Act of the 24th of the King; an Act which, he said, did not repeal any charters. The minister, in the year 1784, had declared, that it did not, and the House had passed the Bill under that express declaration. Would any man then say, that the House ought to repeal chartered rights by construction? He denied that the Board of Control could have the power to originate and act in the first instance from the very nature of their institution. The Board was instituted to superintend, control, and amend. It was expressed in the Act, that if the Court of Directors did not send dispatches in due time, the Board of Control might, in that case, originate. The very exception proved that they could not generally originate; the power of originating must therefore have existed elsewhere; and where could it exist, but in the Court of Directors. If the Board of Control had not been convinced that it did not exist in the Court of Directors, how came they in October last, in a time of alarm and tumult, to make application to that court for their consent to the embarkation of the four regiments in dispute? if they had not been so convinced, why did they, at that moment, come to parliament for a declaratory law? Would any man say, that the Act of 1784 was considered by the public in any other light than as an act of control, and not as an act of deprivation? Would any man say, that it was not the meaning of the Act of the 24th to establish a board of control, instead of a board of power? Were the case otherwise, the Board would, in fact, not be a board of control, but a new East India Company. Was it not absurd to give a board of control to control themselves, and yet if they were a board of power, that was taken from them over which they were to exercise control. The mischief in that case would be infinite. By blending power and control together, there would actually be no control at all, not even the ultimate control of all, the control of parliament! It would be better to make the Company a board of control themselves, because they would be subject to the control of parliament, which a ministerial board of control would not, but would be more likely to control and over-awe parliament. The object of the legislature had been to have a board of control over the East India Company; but, the minister being made the East India Company, instead of having two controls as at present, and one East

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India Company, they would have two East India Companies, and no control at all. The right hon. gentleman thought proper to maintain that the commercial rights of the Directors had been left uninjured. He denied that fact. Commerce could not be carried on without territory, without influence, without investment. If the Board of Control had the right of anticipating the revenues, they could anticipate the investment and they could thus destroy commerce. He entertained too high an opinion of the abilities, the integrity, the head, and the heart of Mr. Pitt, to believe him to be the author of the present Declaratory Bill. He was persuaded he was not; but he was sorry to find him prostitute his great name, and submit to stand forward as an apostate. With regard to the checks and guards against patronage provided in the present Bill, that patronage would, in spite of all guards, rest with the Board of Control. The Court of Directors could not hold it. The patronage of the slave was necessarily the patronage of the master. The Court of Directors must not only suffer the Board of Control to exercise their patronage, but offer it to them; nay, not only offer it, but dare not complain of its having been extorted from them. They could no more hold the patronage while the Board held the power, than a man on the ground with money in his pocket could say it was his own, while another man was standing over him and had a drawn sword at his breast. Patronage was not, according to the general idea, the mere power of appointment and dismission to and from office; but it was every thing that created influence. The power of applying and appropriating the revenues gave considerable influence, and, consequently, considerable patronage. Making contracts was patronage; and a variety of other exercises of power gave patronage. If, therefore, the Board of Control had all that power, what was to control them? No man had a greater respect for the power of parliament than he had; and therefore he did not wish to see the power of parliament sapped and undermined, as it would be, if the minister were suffered to annex all the enormous degree of influence deducible from the patronage of the East India Company to his Board of Control. Four years ago they were told, that the influence of the Company would make a small body superior in power to the Crown itself. Besides the power of the Board of Control, it was worth while, therefore, to consider what was the power of the Crown in Asia already? The Commander-in-chief and Governor-general were subject to the Crown and independent of the Company. The Supreme Court of Judicature was also subject to the Crown. At home, the Crown had the power of raising recruits, as well as the power of making the condition of renewing the Company's charter, and a variety of subordinate sources of influence. This naturally led him to a farther consideration. He wished to ask if gentlemen were prepared to pronounce it a wise measure, at the expiration of the Company's charter, when it could be done without any violation of justice, to take the territories in India into their own hands, and to annex them to the Crown of Great Britain. He should conceive that such an idea would be not only an inexpedient, but an impolitic and unwise measure in every view of it. The territorial possessions of India had always been considered, and so they ought to remain, as a fortuitous acquisition of commerce, and they were by no means fit either to be made subject to imperial sovereignty, or annexed to the Crown of Great Britain. From the very moment of their being determined to be a part of the British empire, the dearest concerns of this country would be pledged to their preservation. Mr. Flood contended that the true meaning of the Act of 1784 was to institute a board of control and superintendance; with this distinction, that the political part of the Company's affairs ought to be controlled, but the commercial part not; yet, if the Board was admitted to be a board of power, the end of the Act of 1784 would be defeated; the control of parliament, as well as the control of the Court of Directors would be at an end, in the instance in question; and the Board of Control would not prove the best control in the world over themselves.

Mr. *Hardinge* said, that the subject naturally divided itself into three questions, and no more: first, whether the Bill in hand spoke the true construction of the Bill of 1784: secondly, whether it was expedient or necessary to speak it then, and in the form of the Bill; and thirdly, whether the checks contained in it were sufficient guards against the power of the Board of Control, so as to prevent any danger arising therefrom. Previous, however, to his entering on the discussion of those questions, he begged leave to ram-

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ble a little out of the subject immediately before the House. The right hon. gentleman (Mr. Fox) had, in the course of the late debates, taken up the comparative merits of his East India Bill, and set them against the merits of Mr. Pitt's Bill of 1784. To that right hon. gentleman, however he might differ with him respecting his India Bill, he confessed himself under the highest possible obligations, and he was ready to declare, that exerting all the efforts of his powers, he could not possibly do justice, in expression, to the degree of gratitude that he felt towards him, for having, by his manly perseverance, and unwearied endeavours, for a number of years together, at length extirpated the most weak, servile, and corrupt administration that ever disgraced the annals of British history. With regard to the right hon. gentleman's India Bill, he was willing to believe, that when he brought that measure forward he had not any intention to go the length which, if he had accomplished in an evil hour for the genius of the country, would have broken down the walls of the constitution, have reduced that House to the most servile situation, have created that monster, a fourth estate, paramount to all the rest, and sacrificed the first and dearest interests of every subject in the realm, the prince as well as the peasant, to the boundless ambition and liberality of the right hon. gentleman.—Mr. Hardinge now proceeded to speak of the use which had been made of the present Bill, through a gross misrepresentation of its constituent characteristics, to endeavour to mitigate and diminish the well-founded detestation and prejudice which were entertained against Mr. Fox's India Bill. On the present occasion, not only the right hon. gentleman, but every one of his friends had seized the opportunity to endeavour to lessen the odium under which they laboured. One hon. gentleman of acknowledged judgment, taste, and ability, had taken the lead on the occasion, and had publicly stood forth and described the general indignation expressed throughout the whole kingdom in 1784 by two strong and emphatical words, a 'senseless yell!' Mr. Hardinge reasoned on this expression, and then took notice of Mr. Pulteney, Mr. Bastard, colonel Barré, and Mr. Powys, whom, he said, Mr. Fox had, as it were, pressed into his triumph. One hon. gentleman had said, that he was ill at Bath when the Bill of 1783 was agitated, but he had heard that it made a great cry; that as to the Bill of 1784, he had seen an East India Director, who told him, that it had used the Directors rather hardly, but they had such a confidence in the administration, that, satisfied they would not put it in force rigorously, they had made no resistance. Of another hon. gentleman, then in his eye, the right hon. gentleman had spoken in terms of warm eulogium, and admitted very fairly, that the hon. gentleman had written a pamphlet against his Bill, which he confessed to have been a severe blow. That pamphlet had been one of the most ingenious, solid, sensible, and unanswerable arguments against the Bill of 1783 that ever the press put forth. If the right hon. gentleman thought himself entitled to make those who had so conducted themselves followers of his triumph, he wished him joy of such friends. Another of these hon. gentlemen, (Mr. Powys), for whom he had ever entertained a profound respect, and who had thundered out his oracles in that House formerly, especially when he stood between the heads of administration and the heads of opposition, with a degree of impression almost irresistible, having voted for the Bill of 1784, had pronounced the Bill of the right hon. gentleman a strong measure undoubtedly; but he had immediately added, that it was a measure characteristic of the manly mind of its author. The right hon. author of the Bill of 1783 had, in the course of the recent debates, observed, with exultation, that he was better heard than he had been for some time past, in that House. He begged leave to ask if the hon. gentleman, to whom he had been alluding, could say the same? Was he as well heard as he used to be? His fortune is great; his character in private life is amiable; and his understanding is a most enlightened one; but yet he is not heard with the attention which he once commanded. Whether it arose from spleen on one side of the House, or that he was bewitched by the other, remained as yet to be decided. The reason nevertheless was obvious, and he would inform the hon. gentleman, if he were favoured with his permission. The reason why the hon. gentleman stood degraded in the opinion of that House—[A vehement cry of Order! order!] Mr. Hardinge begged leave to assure the House, that he spoke merely of his public character; but the cry of order increasing, he was obliged to sit down.

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Sir *Francis Basset* remonstrated against the liberty which the hon. gentleman had taken with the character of an individual member of that House.

Mr. *Powys* earnestly intreated the hon. baronet who spoke last to desist; and then added, how far liberal the hon. gentleman's conduct is, I leave to the House to determine; but disorderly I admit that he is not, and I beg he may be permitted to proceed and explain himself, as the House will, doubtless, do me the justice to permit me to answer him.

Mr. *Hardinge* protested, that if he had fallen into any error, it arose from inadvertency. He had conceived, that so long as he confined himself to public character, he should have been within order. The reason why he thought the hon. gentleman did not stand so high in the opinion of that House as he used to do was, because the House had found that the hon. gentleman had looked less to principles, and more to men, than he had been used to do formerly; that, in fact, he had abandoned the examination of measures, and by adhering to men, had become a partizan.

The *Speaker* said, he felt it his duty to reprehend the hon. gentleman, and to inform him, that the rule of the House was, when the public conduct of members had been at all adverted to in debate, to mix the measure with the man, and thus form a fair and tenable ground for animadversion, but to take the character of a member in the abstract, and make that the subject of discussion, was in the highest degree disorderly.

Mr. *Hardinge* said, that he was ready to apologize in any terms the House thought proper to impose, conscious from what had fallen from the chair, that he had been in the highest degree disorderly. He concluded by expressing the satisfaction he felt, in finding that Mr. Pitt was supported by a House of Commons, influenced not by corruption, but by admiration of his talents, and confidence in his integrity. The support of the present House was the more honourable to the minister, as its confidence in him was not a blind confidence; the minister found himself sometimes in a minority; and his defeat on such occasions, made his triumph the more honourable to him on others, as it must appear to the world that his measures must be good, or they would not find support from a majority under no other influence than that of reason, and the public good.

Mr. *Powys* said, he did not feel himself degraded, because he never had abandoned any one principle he had ever professed; if he had, he called upon the learned gentleman to point it out. If he was less agreeable to any part of the House than he had formerly been, it was because he had adhered stedfastly to his principles, without being tainted by the example of those who had deserted theirs. He had appealed to his constituents at the last general election; before them he defended himself, and vindicated his conduct in the late political convulsion; the consequence was, he did not stand degraded in the eyes of his constituents; and he was ready to defend himself against any charge.

Mr. *Adam* declared, that it was impossible for him to sit silent after the attack made on the noble lord in the blue ribbon, to whom he was proud to confess himself under singular obligations. If there was any part of that administration to which the terms servile and corrupt applied, let his learned friend look round on either side of him where he sat; let him look into the other House of Parliament. Among those whom he now called his friends in the highest offices of the state, were to be found the persons of that administration, to whom the epithets servile and corrupt might belong, if they belonged to any. Those who sat on his side of the House had shown, that their attachment to the noble lord was not founded in servility and corruption, and that they were incapable of being influenced by any such motives.

Mr. *Addington* supported the Bill, and instanced the 14th clause, which gave the Court of Directors an appeal from the Board of Commissioners, the oath obliged to be taken by the Commissioners, and the petition of the Court of Directors and Proprietors to his Majesty after the Bill of 1784 had passed, as arguments in proof that the Directors must be aware that they gave the Board of Control no patronage, and at the same time afforded them, after a full knowledge of its contents, ample and complete satisfaction.

Sir *Francis Basset* denied that the Act of 1784 went farther than to establish a Board of Superintendance and Control. If the mover of that Bill now felt that additional powers were wanting, why did he did not come forward and ask for them?

Mr. *John Scott* observed, that Mr. Fox had, on the preceding Friday, charged

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him with having misrepresented his Bill, and that therefore he felt as if he had set his foot on a viper, such was his horror at hearing an imputation of the kind levelled at him. He admitted the two particulars in which he had erred, but contended, that he had been generally right in his argument against the right hon. gentleman's Bill. He read three extracts from the debates of December 1783, on the subject of the India Bill, to prove that he had been warranted in his assertions. The book he knew was not deemed the best authority, but it at least contained an account of the debates of the period in question extremely favourable to the right hon. gentleman. He then argued against Mr. Fox's Bill, in order to prove that it tended both to increase and decrease the influence of the Crown, and to confound the legislative and executive functions of government.

Lord *Mulgrave* rose to state some facts in the memory of the House, which would serve to show what the true distinction was, between the Bill of Mr. Fox and that of Mr. Pitt.

Mr. *Sheridan* was surprised, that the noble lord, though one of the Board of Control, had not said one word to the subject, which concerned that Board more immediately, but had confined himself merely to abusing his right hon. friend's Bill. The noble lord had turned a deaf ear to the earnest appeal of his colleague (Mr. Dundas), and though twice called to by the Speaker in the course of a former debate, had chosen to remain silent, till his right hon. friend had been called upon to say a few words in reply to an attack on his Bill founded in misrepresentation. The noble lord had then observed, as it were to himself, "this is the fit time for me to speak. Now I'll rise and take my share in the debate." The noble lord had accordingly risen, and after having advanced what he thought proper, by way of aggravating and inflaming the false colouring put upon his right hon. friend's Bill, had sat down, declaring there were other matters of which he meant to have taken notice, but that they were as well let alone, meaning undoubtedly the conduct of the Board of Control, the members of which collected themselves together in such a state of perfect harmony! No man had more personal respect for the noble lord than himself, but he could not help remarking so singular a circumstance as that which he had noticed.—He would now proceed to say a word or two upon some matters that had dropped relative to the administration of lord North. A learned gentleman had thought proper to call lord North's a weak, servile, and corrupt administration, a charge which an hon. and learned friend of his had repelled with equal eloquence and ability. Whatever there had been of servility and corruptness in lord North's administration, the learned gentleman over the way might best learn by inquiring of those about him. Evident it must be that no part of those base passions was imputable to such of the friends of lord North, as sat on the side of the House on which he stood. They had been put to the severest test, and to their eternal honour they had evinced their steadiness and truth in the hour of severest trial. When it was least possible for the ends of servility and corruption to be answered, they had most manifested their affection to lord North's person. Mr. Sheridan replied to the remark of Mr. Hardinge, upon his having termed the clamour occasioned by the gross misrepresentations of Mr. Fox's Bill, a senseless yell, and in answer to the insinuation that he had advised his right hon. friend against the measure, he begged leave to deny having ever given such advice. He had differed with him as to the mode of doing it, but as to the measure itself he had ever considered it as wise and manly. He declared that the Bill then before the House had sufficiently established the propriety of Mr. Fox's Bill, and proved the folly of the clamour that had been set up against it. Mr. Sheridan observed, that a learned gentleman (Mr. Scott) had produced some books, which he himself had stated to be bad authorities, to prove that Mr. Fox had said in 1783 what he had never uttered. Such books certainly were not to be relied on with implicit confidence, but there was to be found in those very books, a report of part of a speech of the learned gentleman, in support of the veracity of which his recollection bore testimony, as he could declare upon his honour he well remembered it to have happened as it was there stated, namely, that when the idea of its being the design of the Chancellor of the Exchequer to dissolve the parliament had been in discussion in that House, the learned gentleman had stood up and assured the House that the right hon. gentleman had no such unconstitutional purpose (as he had termed it) in view, pledging himself to be the first man to

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come forward and move an impeachment if the right hon. gentleman should take such a step. The step they all knew had been taken, and it was equally well known that the learned gentleman had not moved the impeachment.—Mr. Sheridan added that as the learned gentleman and others had spoken in terms of severity of his right hon. friend's Bill, he had a right to contend that they well knew it did not deserve what they had said of it; or that if they thought it did deserve what they said of it, they had by their actions and their conduct contradicted their sentiments. He explained this by asking whether, if the majority of that House really thought his right hon. friend, himself, and all their friends, men of such principles as they ascribed to the authors and supporters of Mr. Fox's East India Bill, it was likely that they would since have entrusted them with the conduct and management of a cause, in which the glory of the nation, the honour of his Majesty, and the lustre of his Crown, the dignity of both Houses of Parliament, and the justice of the legislature, were deeply interested? Would the House have honoured them with so extraordinary, so delicate, and so distinguished a mark of their confidence, if they had been enemies to the constitution, violaters of the law, and persons who held the private rights of individuals in indifference. The reverse must be the fact, and to assert otherwise would be to libel the House of Commons in the grossest manner. In that trust, his right hon. friend, and all who shared the trust with them, possessed the highest power, and the most dignified patronage; they had the power of retrieving the national character, and establishing, beyond all question, its title to be considered as the impartial dispenser of justice: they held the patronage of protecting the innocent, of punishing the guilty. An office of the highest honour had thus been bestowed on his right hon. friend, an office of a far different nature, and more congenial to his feelings, than that which had been bestowed on the right hon. gentleman opposite to him. To use influence and prostitute power was suitable to the temper of the one, as to do justice and avenge the injured, was suitable to the sentiments of the other. Long, therefore, might his right hon. friend continue so employed, a stranger to courts and all their vicious delusions!

Lord *Mulgrave* declared, that there had been no difference of opinion between Mr. Dundas and himself. He had, agreeably to the act of parliament, sworn to give his advice and assistance. In conformity to that oath he had delivered his opinion, and whenever he thought differently upon any question that came before the Board, and it had happened that after deliberating upon matters, he had entertained different sentiments respecting them when he entered the Board room, the superior assiduity and abilities of his right hon. friend, enabled him to state such reasons as had more than once convinced him of his having formed an erroneous opinion. Their decision, therefore, had been unanimous, but he never had voted upon any other ground than conviction.

Mr. *Grenville* confirmed what the noble lord had said. He certainly considered himself as acting in a less elevated situation at that Board than his right hon. friend, but he held himself equally responsible for every act of the Board, and equally a sharer in the criminality of their proceedings, if any should appear.

Mr. *Pitt* said, that having, when called upon, attended with minuteness to the subjects before the Board, and given the best of his advice, he thought it necessary to declare, that if any censure was imputable to the commissioners, he was entitled to an equal share of it with the other members of the Board. Having said this, he declared there were two reasons that would induce him to give his negative to the amendment proposed. The one was, that the doubts, as expressed in the Bill, were grounded upon what he held to be the true construction of the Act of 1784, and against which many gentlemen had given their opinion; the other, that the amendment, declaring that the commissioners for the affairs of India were vested with all and singular the powers possessed by the Court of Directors, when the Bill of 1784 passed, did far exceed the construction of that Bill.

The question on the Amendment was then put, and negatived. After which the House divided on the motion, "That the Bill be engrossed:"

Tellers.

Yeas	Mr. Rose - - - -	210
	Mr. Steele - - - -	
Noes	Lord Maitland - - -	122
	Mr. Grey - - - -	

So it was resolved in the affirmative.

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March 14. On the motion, That the Bill be now read a third time,

Mr. *Anstruther* said, that he had hitherto refrained from troubling the House with his sentiments on the Bill in question, because he wished to hear it through, and know the whole of it; but as it was now arrived at that stage, in which it might be reasonably conceived, that it was as perfect, as the mover of it meant to make it, he would deliver his opinion respecting its principle and its tendency. The Bill purported to be a bill declaratory of the construction of the Act of 1784. The construction of that Act must be taken from the Act itself. He therefore should endeavour to state it, from a fair examination of its obvious spirit and meaning, coupled with the clauses. He then proceeded to discuss the several clauses of the Bill of 1784. He began with clause 12, which was an imperative clause on the Court of Directors, obliging them to pay due obedience to such orders as the Board of Control should legally give. The Board derived from that clause no power of originating dispatches. That power they possessed in two cases only, as where the Directors should neglect to transmit their dispatches to the Board of Commissioners within fourteen days of the requisition made, and where, upon the representation of the Court of Directors, the Board should think proper to make any alteration. These powers were given under certain restrictions, stated in the originating clause; the only clause which enabled the Board of Control to originate and amend. If a set of men had power given them under certain circumstances, the clear and undeniable inference was, that they had not a power under other circumstances; for, what could be the use of limitations and restrictions, if that power was to be general? If it had been the intention, that the power of originating and amending should be general, it would not have been said that it was to be with limitations. The only possible way of setting up any thing like proof, that parliament had done it generally, would be, that it was done by a circuitous mode, which could not have been the meaning of the legislature when it passed the Bill. What they meant to do, they did directly. With regard to patronage, what he gathered from the Act was, that the patronage, civil and military, was to be exercised abroad, and not at home. He mentioned the clauses which had been struck out of the Bill in the Committee, and said, that if the power of appointing a commander in chief were given to the crown, they gave the King, circuitously, all the patronage of the army in India, which was a construction contrary to the intention of the House in passing the Act. The clause about sending out an establishment was both imperative and enabling. He read it to illustrate this point; and observed, that offices civil and military were constantly coupled together; and, he asked, if all measures respecting civil and military patronage must originate from the Court of Directors, how was it possible for the Board of Control to send out officers in either department? And yet they boasted of having sent out three major-generals. If the Board could send out military officers independant of the Court of Directors, they had it equally in their power to send out officers in the civil department, and the intention of parliament was to limit the establishment in India. If the Board of Directors could get rid of the civil and military revenues as they thought proper, the Bill gave the lie to its intention. It was fair in him to say, that in passing the Act of 1784, the legislature meant not to pass a dangerous act, and, therefore, he should agree to that construction which was not dangerous. By introducing clauses into the Declaratory Bill, to check and limit the exercise of the powers of the Board of Control, the right hon. gentleman had admitted that it was a dangerous construction which the Bill put upon the Act of 1784. The greatest establishment which had at any time been preserved in India, and which was justified by the best military opinions, did not exceed 10,000 European troops; but by this clause of limitation, it was provided that the Board of Control may send out any force not exceeding 20,000 Europeans; and this at a time when administration had always held out the idea that the forces in India were to be reduced, and when a clause had since the peace been inserted in the Mutiny Bill providing for the return of the regiments at present in India. But was that House, or was the public aware to what lengths they were carried by this concession? Did they know to what a drain they were subjected, when they acceded to such an establishment? Were they acquainted, that to keep up an European force of 20,000 men in the East Indies, would require an annual supply of not less than

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4000 men? and had they any reason for believing that the population of this country was enabled to support a drain of 4000 men annually, who were never to return, or, who, if they did revisit Europe, would come in a useless number, and with exhausted constitutions.—After dwelling some time on the distressed situation of the officers of the Company, when subjected to those under the King's commission, he entered into an historical discussion of the merits of the Board of Control. Their first merit, he observed, was their disobedience to the Act of Parliament, and the wish of the Company, by ordering the promiscuous payment of all the debts of the nabob of Arcot. The second was, the savings which they claimed to have made, but which, in fact, had been arranged by sir John Macpherson, long before their orders were arrived; and their last, great, and undisputed merit, was in the polemic disputations which they had maintained with the Court of Directors! He concluded with mentioning it as his opinion, that the present Bill should have been originated in the other House, where the opinions of the twelve Judges might have been had on the question, Whether the purview of the Bill of 1784 was consistent with the intent of the Declaratory Act, which was now before the House; and with declaring his dissent to the third reading of the Bill.

Mr. *Martin* said, that he also had refrained from taking any part in the debate before; because he had wished to lay aside all the extraneous matter which had been mixed with the discussion of the Bill, and to make up his mind upon the real merits of the question, as it stood alone and unconnected with other matters. He had as yet given but one vote upon the subject, and the reason why he had not voted oftener was, the unconscionable length of time which the House had continued sitting. He heartily wished a standing order were made, that the House should not continue sitting beyond a certain hour. Such a rule would, in his opinion, be a common benefit to the House. If, by staying there and depriving himself of his natural rest, he could do his country an essential service, he would readily relinquish sleep; but, hereafter, unless he could be certain that such would prove the consequence of his remaining there, whenever the House should continue sitting long after midnight, he would not risk the endangering his health, but should make it a rule to retire. On the present occasion, he should give his negative to the Bill, as, to the best of his judgment, it was not a measure of sound wisdom. He was an enemy to all declaratory bills, but, most of all, to what was called a declaratory law upon the case. What chiefly decided his opinion had been part of a speech delivereed in that House, on the preceding Wednesday, by a right hon. gentleman from the other side of the channel (Mr. Flood). His argument appeared to him perfectly convincing. Much had been urged respecting responsibility in the course of the several debates, and the House had been desired to trust to that security for the due exercise of the powers and authorities which the Bill would give the Board of Control. He knew not, for one, how to trust to that security after what he had witnessed. He had seen a minister persevere in bad measures, and by his perverseness continue a wicked and ruinous war, till he had lost America; and that minister having joined that party which had most ill used him, and found shelter under their protection, had not been called to any account for his conduct, although he had repeatedly challenged inquiry. With regard to the unfortunate situation of the noble lord, to whom he alluded, no one of his friends could sympathize with him more sincerely on that account than he did. He lamented his absence, but more especially the cause of it, as much as the right hon. gentleman, who had with so much eloquence reprobated a learned gentleman on Wednesday last, for having attacked the noble lord in his absence, and under his present circumstances. He felt for his indisposition as one man ought to feel for the indisposition of another; but no false humanity should ever make him forbear from such animadversions on public characters as he should think it his duty to make in that House.

Sir *Grey Cooper* said, that with the leave of the House, he would delay his examination of the question until he should have taken the liberty of animadverting upon a part of an extraordinary and eccentric ramble which a learned gentleman (Mr. Hardinge) had made from the matter in debate, when this Bill came last before the consideration of the House. He acknowledged the power of his abilities, and he had really conceived that he had too much generosity of sentiment, and too many of those fine feelings which

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generally accompany fine parts, to make a premeditated attack against the administration and the character of a noble lord in his absence, and in an absence accounted for by such peculiar and affecting circumstances. He admitted that the conduct of all men who have been ministers, was liable to be arraigned and censured in parliament, when any act or measure of their administration was directly or incidentally under consideration, or connected with the matter in debate; and that no particular circumstances or situation ought to shelter them from such animadversion. The attack in the late instance was unprovoked, and unjustified by any matter respecting the noble lord's conduct, or the measures of his administration, alluded to in any previous debate on this Bill. He had, therefore, a right to say that the animadversion of the learned gentleman was thrown out in a manner highly irregular, and that it was irrelevant to any point or question in debate.—After this opening, sir Grey proceeded to state his objections to the question, that the Bill be read a third time. He contended that the Bill, since it came out of the committee, was encumbered with additional difficulties; no precedent had been adduced, though many had been promised by the right hon. gentleman, of enacting clauses being added and annexed to declaratory bills. He ventured to assert, that it was incongruous with the ground and principle of declaratory laws, to superadd to the declaration of what was and is law, explanatory clauses, qualifications, and restraints. To what did the present annexed clauses amount, unless to an assertion, that the power declared to be in the commissioners was first vested in them by law, provided certain things be done, and certain conditions performed by them which were not law before? The clauses proposed by the right hon. gentleman to cover his retreat, were incongruous and preposterous in the correct sense of the word: they were in their nature and formation antecedent to the Declaratory Bill: they ought to have constituted part of the Act of the 24th of George 3. If it was ever the intention of that Act (which he flatly denied) to give the formidable powers to the Board of Control which this declaration assumed, they could not, on any ground, either of principle or precedent, be engrafted on the Bill, as clauses and provisions subsequent to its declaratory operation. It was now admitted, by all the learned gentlemen, however they differed in other important points, that they were acting in their judicial function and capacity. He had always considered it as one of the soundest maxims of the law, that *judicis est officium dicere, non facere legem.* The maxim was grossly violated in the present exercise of the judicial authority of that House. He insisted that what he had stated was an unanswerable objection to the whole of the Bill; but it must pass, and it would remain a striking example to future times how dangerous it was for Parliament to step out of its limits, and to usurp judicial authority.

Major *Scott* said:—Sir; at the time the India Bill passed, I did then understand, that when the Board of Control and the Court of Directors should differ in any point relative to the civil or military government in India, the Directors would be compelled by law, to abide by the decision of the Board of Control; and I find that other gentlemen, though connected with me in friendship, yet of different political principles, entertain the same opinion of the intent of the Act; but, in making this concession, I contend that the right of petition or appeal lies in the court of Directors or proprietors, either to his Majesty or to this House. The question now is, according to my idea, not whether the Board of Control have the power, but whether they mean to exercise that power for the advantage of the public service, in sending four regiments to India. —A learned gentleman (Mr. Anstruther) has said a great deal, in which I perfectly concur with him, and particularly as to the reductions of expense which the Board of Control have accomplished. When I heard a right hon. gentleman (Mr. Pitt) state these reductions at one million and a half sterling annually, I own I was struck with astonishment, and I had recourse to the accounts before this House, which, strictly speaking, must be my authority, in order to prove the truth of the assertion: but, by those accounts I find that the expenses in India have been gradually increasing, and that in fact they are higher now, by 700,000*l.* than they were three years ago. These accounts I know are fallacious, and they only prove, that if we argue from accounts before the House, we must be in an error. I have, however, had recourse to the best possible information, and I am very happy to state the following particulars to the House. I find

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that, in January 1785, immediately before Mr. Hastings left Bengal, reductions were made to the amount of 680,000*l.*, or in other words, that peace being less expensive than war, several corps were at that time reduced, armies that had served in Guzzerat, and in the Carnatic, were drawn into cantonments, contingent bills were retrenched, and great reforms were made in the civil expenditure. His successor, sir J. Macpherson, went farther; he made additional reforms. The same subject of reform was taken up at home, and though I am very willing to give the Board of Control every praise that is due to them, yet I affirm, that the great credit is due to my hon. friend (Mr. N. Smith) then the chairman, for the laborious attention he paid to that important subject. The consequence was, that when these reforms shall completely operate, for, as yet, they have not completely operated, 480,000*l.* more will be cut off from the expenditure in Bengal, making in the whole, 1,160,000*l.* which is not the difference between the extravagance of the governments in India, and the economical arrangements of the Board of Control, but the difference between peace and war. I do not mean in the least to detract from the merit of the Board of Control, by explaining a matter which has been so much misunderstood. The learned gentleman has expressed his surprise at the idea of keeping up so large an establishment in India as 20,000 Europeans, including officers, which are above 1,800, I can only say that from the time of lord Clive to the present day, every Governor and every Commander-in-chief, has expressed the strongest desire to receive from Europe as many Europeans as could be sent to them, and upon this good ground, that in war you cannot recruit your European force, whereas you may increase your battalions of Sepoys without any difficulty. I would, therefore, now add as much as possible to our European force, and the strength of the sepoy battalions may be proportionably lessened. Supposing the whole military establishment of Bengal completed upon the proposed plan, it will not exceed 5,000 European infantry, 1200 artillery, and 56 battalions of sepoys. Do gentlemen consider the extent of country which that force is to protect? We are not now confined to the Carumnassa, our frontier line is Rohilcund, the Douab and Corah. We cover from foreign invasion the whole of the dominions of the Nabob of Oude; we are bound by treaty to keep in his dominions one battalion of artillery, two battalions of European infantry, and twelve battalions of sepoys, and he pays us the full expense of these troops. Our own dominions are extensive and valuable, and added to those of the Nabob, the Bengal government is to protect countries 1250 miles in length, and from 450 to 500 miles in breadth, including Rohilcund, Oude, part of the Douab, Corah, Cuvah, and Allahabad, Benares, Ghazepore, Bahar, Bengal, and a part of Orissa. Will any gentleman then say, that the military establishment of Bengal is in any respect too large for an empire of such extent, value, and importance to Great Britain? As to Madras and Bombay, I do certainly differ with the Board of Control with respect to the force to be stationed under those governments. Let the European force be as considerable as that now proposed, but then let there be a proportionate diminution in the sepoy force, or the revenues of Bengal will be swallowed up in establishments; for gentlemen ought to know that our expenses at Madras and Bombay, so far from being diminished, are in an alarming degree increased. The learned gentleman has said, that Great Britain cannot keep up a proper establishment in India, that she cannot spare so great a drain of her people. If that is so, it is a very good argument for giving up the country altogether; but I deny the fact; and I utterly deny that every soldier who goes to India either dies there or returns an invalid to Great Britain. I can deny it upon the surest grounds: for I was, many years ago, adjutant to one of our regiments in Bengal, and each season before the time arrived for the departure of the ships, the men who had served their five years, and did not chuse to re-inlist, were sent to England, their passage paid; nor was the faith of our government ever broken, in this respect, even when we were in the greatest distress for men. I have met with many of these men in villages in England; many have returned again to India; and it is a fact of universal notoriety, that there is not a service in the world equal to the Company's service for soldiers. A decent man, who writes a tolerable hand, will generally return at the end of his five years with two, three, and four hundred pounds. Very many have done so in my time.—As to the point of increasing our European force, I am perfectly convinced of the propriety of it. The most eligible way

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to do it, in my judgment, would be to send out recruits, and to form new regiments in India, to be officered by our supernumeraries, of whom we have above 500; but, as that cannot be done, I shall give my hearty vote for sending out the four regiments; provided, which is a *sine qua non* with me, every cause of jealousy and discontent is removed; and I do hope to see the right hon. gentleman get up this night and explain himself very fully upon that point. Much has been said of the patronage which the Board of Control or the King's ministers have acquired. I protest I do not see it in that dangerous point of view. The Directors will take care of their own patronage; but should they be disposed to give any part of it away, as they formerly did, to the King's ministers, it will be a long time indeed before a writer or a cadet can be appointed. I think they are too effectually tied up to exert any undue influence of patronage; but when I consider from what quarter the insinuation came, I am indeed surprised, and unable to contain my astonishment in my own breast. It came from a right hon. gentleman (Mr. Burke) who, I will take upon me to affirm, did, for the purposes of patronage, and patronage only, exert the most improper influence that ever I heard of in any country. I will not make use of harsh expressions, but I will state the facts, and there are gentlemen on both sides of the House who know them to be true as well as I do. The House will then see with what propriety that right hon. gentleman can talk about corrupt patronage. In 1777, a near relation of the right hon. gentleman, (Mr. William Burke) went to India, contrary to law, and without the consent of the Directors; the next year he returned to England, and appeared here publicly as the agent of the rajah of Tanjore. In 1781, he again returned back to India, in the same character, and went to Tanjore, where he resided. In the same year 1781, the Act passed by which the Company were to pay for the King's regiments in India a certain specific sum. The gentleman who was then pay-master-general (Mr. Rigby) applied to lord North to appoint a pay-master of the King's forces in India. Lord North, with that regard to the public necessities which did him honour, refused to saddle them with what he thought an useless expense; and a mode was settled by which the necessary advances were to be made to the commanding officers of the King's regiments. In March 1782, a complete change of ministers took place: the marquis of Rockingham became First Lord of the Treasury, and the right hon. gentleman (Mr. Burke) Paymaster-general. In June 1782, a warrant was issued from the Treasury, appointing Mr. William Burke paymaster of the King's forces in India. Now, if ever there was an improper exercise of influence for the purpose of corrupt patronage, this surely was one. For, first, I contend, that no fresh circumstance had arisen to justify that being done by the marquis of Rockingham for one paymaster general which lord North had, very much to his honour, refused to do for another: and next, I contend, that Mr. William Burke, from his situation, was the last man in the world to whom it ought to have been given, for he was at the time, agent to the rajah of Tanjore; he was with the rajah of Tanjore; and, though his warrant was passed, and his pay and allowances of course commenced in June 1782, yet, if I am rightly informed, he did not enter upon his office till September 1783. After such a glaring instance of an improper exertion of patronage, to put a large sum of money into the pockets of his own family, shall that right hon. gentleman be the loudest man in this House to accuse gentlemen near me of a fondness for patronage? Where are the instances? Have the joint paymasters-general removed his relation to make way for a friend of their own? No; they have suffered Mr. William Burke to retain his office to this moment, though the mode of his first getting out to India, the employment he held under the rajah, and the manner in which the office of paymaster was conferred upon him, might have justified them fully to the public, in annulling the office, or, if it were necessary, which I affirm it was not, of putting one of their own friends into it. That the Board of Control did procure the appointment of earl Cornwallis, I believe; and in so doing, I think they performed a great and meritorious public service, and deserve the thanks of every friend of the Company and their country. That in trifling instances they may have had an opportunity of procuring trifling favours is very possible; but the patronage is actually in the Directors, and it is their own fault if they give it up.

Mr. *Burke* said, that the attack just made upon him, arose in the quarter from

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whence the House might naturally suppose that such an attack would issue. With regard to the fact charged upon him, he, undoubtedly had been the adviser of the appointment of Mr. William Burke to the office of paymaster of India. In that appointment Mr. Burke had been continued by the present ministry, who would have been too just to their country not to have annulled the appointment and recalled him, had the appointment appeared improper, and who were too generous to find fault without a reason.

Mr. *Francis* began with observing that, after the able, eloquent, and manly defence which his hon. friend (Mr. Adam) had delivered so very lately against the unprovoked attack made upon the character of a noble lord, who was absent, (by Mr. Hardinge) he did not expect that a similar attack would be so soon attempted against the same noble lord, who was no way concerned in the immediate subject of debate. He was the more surprised at its coming from a gentleman, who set out with declaring, that he had refrained from voting in the two last divisions on the present Bill, for the express purpose "of clearing his mind from all extraneous matter!" That he could not hear without astonishment, that hon. gentleman so often, and at such improper times, reproach those persons, who formed a constant minority in that House, with protecting the noble lord from impeachment, as if they possessed the authority of government, as if they had the power of the country in their hands; at the same time that he continued to express unbounded approbation and confidence in the minister, who certainly had all the power that was necessary, who certainly could want nothing but a disposition to bring the noble lord to that trial with which he was often threatened, and which he had always, with a spirit that did his lordship the highest honour, encountered, provoked, and defied. Did the hon. gentleman forget, or was he determined not to see, who were the friends, supporters, and allies of his favourite minister? Were they not the friends, supporters, and allies of the noble lord, as long as he had power, as long as they could engross the emoluments of his administration? Were they not, in truth and fact, the authors, promoters, and abettors of the American war? The minister had full power to impeach the noble lord. Let him do it, if he dare. But, as long as that fair and regular proceeding was avoided, it was silly and shameful to tease and affront the noble lord, especially in his present situation, with loose invectives, and mere personal reproaches; levelled indeed at the noble lord, but reverting with double force upon the friends and colleagues of the minister, and even upon the minister himself, leagued as he was with such men, and pretending to reprobate the American war, yet shrinking in fact from the idea of a formal, parliamentary inquiry into the causes and conduct of that war.

After making an apology for this digression, Mr. Francis said, that, having taken an active part in opposition to the Act of 1784, and resisted it in every stage, having objected to it for a variety of reasons, which he had stated at large to the House, he was particularly bound, more perhaps than other gentlemen, to express his opinion of the present Bill, which gave or pretended to give to that Act a meaning and operation which he, of all men, had the most reason, if not the best right, to deny. That, if the construction of that Act, which was set up by the present Bill, had been avowed or even thought of at the time, he should have abandoned all his other objections; he should have thought them trifling, weak, and unworthy of consideration, in comparison with that, which must have instantly and exclusively taken possession of his mind, at the very idea of giving to the Board of Control, that is, to the single hand of Mr. Dundas, a power so exorbitant and so dangerous, as that which, as we were now called upon to declare, the Parliament meant to give, and had actually given, to that gentleman. No man thought of it at the time; certainly, no man said it. No man would have dared to say it. If, nevertheless, there could be a doubt, if there could be a question on that point, it might easily be determined. He would bring it to a short, clear issue. No member of that House, he contended, could vote for the present Declaratory Bill, unless he could, and did affirm upon his honour, in the face of the House, and in the view of his country, if not directly in words, implicitly by his vote, that when he consented to the Act of 1784, he precisely and specifically meant to give the power declared by the present Bill. That Mr. Pitt was bound and understood not only to make the same declaration, upon his personal honour as a gentleman, as well as on the public faith of his office as a minister; but

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he who proposed that law, must farther declare, with the same solemnity, with the same appeal to his personal veracity, that this was the sense, in which he knew that the Act of 1784 was received and assented to by the House; because in all engagements whatever between man and man, the party that proposed, was bound not by his own reserved sense of the engagement, but by the sense in which he knew it was received and accepted by the other party. He understood, therefore, that Mr. Pitt had pledged his personal honour upon the clear, unquestionable truth of both these assertions. That he for his part, was obliged on the same principles to give his vote against the present Bill. He must assert a notorious falsehood; he must expect to pass for an infamous imposter, if he said or admitted that the powers, now declared to have been given in 1784, had ever been so much as in contemplation, had ever been hinted at in the remotest manner, when that law was in agitation.

Mr. Francis denied that this was a legal question in that House, or could be a legal question, in the common popular acceptation of the word. On a legal question, it is usual, and necessary perhaps, to have recourse to legal opinions. If you want to know how to proceed in the courts below, in the King's-bench, or in the Old Bailey; if you wish to know how far the law will support you in maintaining what is or is not your right, you apply for advice, you pay for it, and you follow it. The Court of Directors had acted properly in consulting the gentlemen of the law on the present occasion. With them it was a legal question. In this House it is a legislative question, and nothing else. We are to ask ourselves, as legislators, what we meant when we enacted such a law? can any thing be more absurd, ridiculous and preposterous, than for us, who pretend to be legislators, to submit to ask lawyers, what was our own meaning and intention, by our own act and deed? Learned gentlemen have engrossed the question, as if it belonged solely and exclusively to their department, and as if we had nothing to do with it but to find, if we can, some determinate sense in their discordant opinions, or to reconcile, if that were possible their flat contradictions of one another. Upon paper you see them drawn up in battle array; three or four on one side, and as many on the other. Decide between them, if you can. In this House, to be sure, we have every assistance that learning and practice can afford. We have a learned person (Mr. John Scott) among us, who is universally acknowledged to be the great luminary of the law, whose opinions are oracles, to whose skill and authority, all his own profession look up to with reverence and amazement. Well, sir, what information have we gained from that most eminent person? I will not attempt to follow or repeat so long, and, as I have been told, so ingenious an argument. Ingenuity it seems, is the quality, which is chiefly wanted and relied on on the present occasion. But I well remember the course of it. The first half hour of his speech, at least was dedicated to himself. He told us, who he was; he explained to us, very distinctly, the whole of his moral character, which I think was not immediately in question; and assured the House that his integrity was the thing on which he valued himself most, and which we might, with perfect security, rely on. Of his learning, I confess he spoke with more than moderation, with excessive humility. He almost stultified himself, for the purpose of proving his integrity. For the sake of his morality, he abandoned his learning; and seemed to dread the conclusions, that might be drawn from an overrated opinion of his excessive skill and cunning in his profession. In my mind, Sir, there was no occasion for this extraordinary parade. The learned gentleman's reputation in private life, I believe, is unimpeached. What we wanted, what we expected of him, was his learning, not his character. At last, however, he proceeded to the subject of debate: here we were all in profound silence; attention held us mute. Did he answer your expectation? Did you perfectly understand him? Did he perfectly understand himself? I doubt it much. If he had understood, he could have explained himself to the meanest capacity. If you had distinctly understood him, you might distinctly remember what he said. Now, setting aside the adept, (I mean his own profession;) setting aside those who have been initiated in the mysteries, is there a man here, who can remember and is able to state the learned gentleman's argument?—I believe not. For my own part, though it is impossible for me to listen with more attention than I did, I confess I soon lost sight of him. At first, indeed, he trifled with the subject, in a manner that was

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intelligible at least, perhaps dexterous, though not conclusive. He argued some little collateral points with a good deal of artifice: he made many subtle argumentative distinctions; he tried at least, to involve us in nice, logical difficulties, and to drive us *ad absurdum* by what he called unavoidable inference from false premises.—In short, he attacked or defended some of the out-posts of the question with what I suppose is held to be great ability in Westminster-Hall. He skirmished well at a proper distance from the main body of the subject. All this I acknowledge. But when he came at last to the grand point, at which we had waited for him so long, at which we had impatiently expected the predominant light of his superior learning, the decision of the oracle, did he resolve your doubts? Did he untie, or did he cut the Gordian knot? Did he prove to you in that frank, plain, popular way, in which he ought to have addressed this popular assembly, and which he would have done if he had been sure of his ground; did he demonstrate to you, that the Act of 1784, clearly and evidently, or even by unavoidable construction, gave the power declared by the present Bill? Sir, he did no such thing. If he did, let us hear it once more. He who understands can remember. He who remembers can repeat. I defy any man living, not a lawyer, to recite even the substance of that part of his argument. The truth is, he left the main question exactly where he found it. So it generally happens. It belongs to the learning of these gentlemen to involve, and to their prudence not to decide. It is so now; it was so two thousand years ago. The old man in Terence, who consulted three gentlemen of the long robe of those days about the validity of his son's marriage, met exactly with the same success, and received the same satisfaction that we have done. After complimenting one another, as they do at present, one of these learned persons told him: "Sir, your son's marriage is valid in law." The other, "Sir, your son's marriage is good for nothing." The third, who was the grand luminary and oracle of his profession, the umpire who was to decide the question;—What said he? Why, Sir, with a modesty becoming his great learning, all he said was, "Ego amplius deliberandum censeo." They then made their bows to one another, took the old gentleman's money, and wished him a good morning. Observe the state of mind in which they left him. "Probe fecistis. Incertior sum multo quam dudum." Well may the Court of Directors, well may this House make the same observation on the present occasion. In the name of God and common sense, what have we gained by consulting these learned persons! It is really a strange thing, but it is certainly true, that the learned gentlemen on that side of the House, let the subject be what it may, always begin their speeches with a panegyric on their own integrity. You expect learning, and they give you morals; you expect law, and they give you ethics; you ask them for bread, and they give you a stone. In point of honour and morality, they are undoubtedly on a level with the rest of mankind. But why should they pretend to more? Why should they insist on taking the lead in morality? Why should they so perpetually insist upon their integrity; as if that were the objection 'in limine;' as if that were the point in question; as if that were the distinguishing characteristic, the prominent feature of the profession. Equality is their right. I allow it. But that they have any just pretensions to a superior morality, to a pure and elevated probity, to a frank, plain, simple, candid, unrefined integrity beyond other men, is what I am not convinced of, and never will admit.

On my principles, however, the damage we have suffered is not very great. In attending to this learned gentleman, we have lost nothing but our time;—we have wasted nothing but our patience. The question before us may easily, and can only be determined by yourselves. You cannot honestly refer it to any other jurisdiction. When you passed the Act of 1784, did you, or did you not, mean and resolve to give to Mr. Dundas (you know very well that the words "Board of Control" are nothing but a periphrase) to apply the whole revenues of India to the expense of raising here, transporting thither, and maintaining there, whatever military force he thought proper, not only without the consent, but against the united judgment and determination of the Court of Directors and of the Court of Proprietors of the East India Company? If you did not mean to give that power to the utmost extent, in which I have stated it, you cannot honestly vote for the present Bill. To ask others what you meant is worse than ridiculous;—much more than contemptible. You criminate yourselves if you admit, that you were capable of mak-

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ing a law which you did not understand, and which you are utterly incapable of expounding. So much for the legality of the proposed declaration. If that should fail, these gentlemen are not without a resource. They have a second arrow in their quiver. If legality won't do, necessity must. Another learned gentleman (Mr. Hardinge) thought he had said something very much to the purpose, when he affirmed that no man had disputed the necessity of the measure, namely, of sending this reinforcement to India. I shall enter into a consideration of that question presently; declaring only for the present, that I not only dispute, but utterly deny both the necessity and the prudence of the measure. But, for a moment, admitting the fact, what has that to do with the question before us? What relation is there between the premises and the conclusion?—You say, it is necessary this day to send four regiments to India, at the Company's expence; *ergo*, it was lawful yesterday. Sir, the very word "necessity," so improperly introduced into this argument, ought to put you upon your guard. It is not only unconnected but incompatible with legality. The two ideas are hostile to each other, and cannot act together on the same ground of argument. An immediate necessity will justify the executive power in acting without law. A transcendent necessity will justify it even against law.—But he who knows that he has the law of his side, will never think of appealing to necessity for a defence of the legality of his measures. Why should he? He has nothing to answer for but the proper use and application of a legal power. His own argument convicts him. It is falsehood in distress, that takes refuge in absurdity. Suppose the measure in question to be perfectly proper and expedient in itself. Be it so.—What then? If the season presses, do it without a law. Parliament, I dare say, may be prevailed upon to forgive you. If not, propose an enacting bill, and take the power you want. By that course, your profest end will be fully answered, without reducing Parliament to the shame and dishonour of asserting an infamous, notorious falsehood in the face of mankind. No, Sir, that would not do for the learned gentleman. He must have a law with a retrospect of four years. His case, I dare say, requires it. He must provide himself with a shelter for offences committed in that period. He must secure a fraudulent indemnity for crimes and misdemeanors yet undiscovered. Let them be brought to light when they may, this Declaratory Bill will serve for his protection. I defy him to state a rational motive, except this, for his preferring a declaratory to an enacting bill on the present occasion.

You have heard a great deal, Sir, of the necessity of the measure, not proved indeed, nor attempted to be proved; but roundly and vociferously asserted. I insist upon it, that all such discussion is foreign from the present question, and ought not to have been introduced into the debate. However, since it has been introduced, I shall offer you my opinion upon it. If I am irregular, it is in following great examples. I neither wish nor expect to influence your judgment by stating to you the result of my own observation and experience in the discharge of the trust committed to me by Parliament. On the great question of the defence of India, I shall appeal to much better authority than mine.—You have the history of India for the last thirty years. Your dominion there was obtained by a handful of Europeans, and has since been defended and enlarged by an effective European force, at no time exceeding, very seldom equal to, one-third of the permanent peace establishment now proposed to be maintained. You have a native army of 50,000 sepoys, infinitely fitter for the climate, infinitely more patient and capable of fatigue, as well disciplined, and, I affirm it upon the surest grounds of conviction, as much to be depended on as any regiment that ever went from England. Pay them honestly, I do not say regularly, as you ought to do, (for I know they will serve much longer and more quietly without their pay than the Europeans)—pay them honestly, and treat them with proper consideration, and they are yours. They have no inclination to desert your standard, nor any other to repair to. That is the grand point on which the attentive inspection of lord Cornwallis may be of essential service. That he will improve the discipline of the sepoy battalions I have no doubt. They are highly trained at present. That their pay should be issued to them regularly, and without deduction, and that the battalions should be kept complete, ought to be, and I dare say will be, the principal object of his care. I do not mean to point at individuals, or to dwell upon faults: perhaps they have been the defects of the system.

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But this I can assure the House, that when a British officer did justice to his men, and treated them kindly, the sepoys were passionately attached to him, and would follow him wherever he thought proper to lead them. With this military establishment, we have stood our ground in India, in the face of ruinous, destructive wars, and, notwithstanding many accidental checks and misfortunes, incurred by our own inexcusable folly and injustice. Besides the evidence of history in support of my opinion, you have the united sense of all the considerable military men, whether King's or Company's officers, who have ever served or commanded in India; of those men, by whom your Indian dominion has been acquired, enlarged, or defended. I appeal particularly to the names of general Lawrence, lord Clive, general Carnac, general Caillaud, sir John Clavering, and sir Eyre Coote, because they were at different times particularly consulted upon the subject. Did any of those officers ever say, that an effective establishment of 6500 European infantry, exclusive of artillery, was not sufficient for the defence of India. I affirm they never did. No, Sir, nor any other officer of rank and experience in that service. In November, 1763, general Lawrence, engineer Call, and general Caillaud gave their opinions to the Court of Directors, that the force to be kept up on the coast of Coromandel and in Bengal should consist of from 2500 to 3000 infantry at each presidency. In April 1764, lord Clive proposed, that the Company should always have in Bengal three battalions of European infantry of seven hundred men each, exclusive of artillery and cavalry. In March 1768, it appears that the Directors had again consulted lord Clive, generals Lawrence, Caillaud, and Carnac, and other military gentlemen on this important subject; and that, in Bengal particularly, they thought it highly expedient to increase the number of Europeans. That establishment was accordingly augmented to 3165 men. General Clavering found it so, and approved of it, Sir Eyre Coote found it so, and approved of it.—I mean in point of numbers. On that footing it continued till 1784, when it appears, by a letter signed by twelve of the present Directors on the 6th of February 1788, that another and higher establishment was proposed by the Court of Directors, but rejected by the commissioners, because it consisted of a greater European force in India than what the commissioners thought was necessary for its defence. The Directors, however, urged such reasons on behalf of their plan, as induced the commissioners to acquiesce. Orders were accordingly sent to India in 1785 for the proposed establishment being carried into effect; and, in consequence of that arrangement (which the commissioners thought would have been more than sufficient for the defence of India) above six hundred officers, who had served during the last war, were reduced.

To all this united mass of experience, of evidence, and authority, what proof, what military opinion or authority has there been opposed? positively none; unless you will accept of the single *ipse dixit*, the naked peremptory assertion of Mr. Dundas, to beat down the experience, of 30 years, and together with it the experience, knowledge, and opinion of every military man who has ever served in India. Observe, Sir, that the false pretence, at first insisted on, and held up, as I firmly believe, for no other purpose but to justify the sending four King's regiments to India, was the immediate expectation of a war. When that pretence failed, when peace was declared to us from the throne, when the occasion had lost its spur, you hear a new language from the same quarter. What they now say is, that they always meant a permanent peace establishment! so it has been expressly stated in this House. Instead of 6000 men, which, though always incomplete, have always been found sufficient for the service, you are now to have a permanent European establishment of 20,245 men; in addition to an army of sepoys, commanded by British officers, and supported by a corps of European artillery, to whom, if it were necessary, I am thoroughly satisfied the defence of India might be safely trusted. On this subject, I should be unjust to that meritorious and excellent body of men, if I left their character to rest upon so feeble an authority as mine. I pretend to nothing more, than that I was bred in the school of knowledge, and that whatever I know has been taught me by some of the greatest men whom this country has produced. On the present occasion, the person I particularly allude to was the late lord Clive. Allow me to read to you the deliberate opinion he gave to your Committee of Secrecy in the year 1773. Let us see, whether any officer who has commanded, or who has even served with

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the native troops in India, will rise to contradict it. I am sure they will all, *una voce*, bear testimony to the truth of it. "Your Committee examined lord Clive, as to his general opinion about the sepoys; and his lordship informed them, that he thought the existence of the Company in India, but particularly in Bengal, depended upon the discipline, and subordination of the sepoys, and that they therefore cannot be too well officered: that he has so high an opinion of the fidelity, attachment, and bravery of the sepoys, when commanded by a number of English officers speaking the language, the defence of the country might be entrusted to them alone, supported by a train of artillery, commanded by British subjects. And your Committee examined general Caillaud on the same subject; who, upon lord Clive's evidence being read to him, confirmed the same. And lord Clive being asked as to the instance of the fidelity of the sepoys in the event above alluded to, informed the Committee, that, upon a mutiny among the officers, and their being turned out of the fort of Mongheer, a battalion of Europeans got under arms, with a view to mutiny, and to follow their officers; that a battalion of sepoys, upon receiving advice of such a design, immediately marched up to them, and reduced them to submission." Yet these are the men, it seems, who are not to be trusted unless they are watched and over-awed by 20,000 Europeans. No man, indeed, has ventured to assert so infamous a calumny in terms. But that which is not said, is done. The present measure affirms the proposition. Now, Sir, I call upon you to weigh the opinions on both sides. Compare the authorities. Put the two men together. Confront the living with the dead, and hesitate if you can.

I know it has been industriously circulated abroad, as well as intimated in this House, that this measure is founded on the requisition or advice of lord Cornwallis. Is that the fact? Will the president of the Board of Control take upon him to affirm that lord Cornwallis has advised and recommended it to government to send out a reinforcement of four regiments? I do not inquire what reasons he may have given for such an advice. That, I know, would be called a secret of state. I should hear of nothing but of heads loose upon their shoulders. The hon. gentleman, I perceive, is unwilling to affirm the fact. By his silence he leaves me to conclude, that the scandalous report I allude to has been circulated on purpose to asperse the character, and injure the reputation of lord Cornwallis;—to make him the stalking horse of a measure he never recommended; to fix the odium of it, if possible, on his lordship; to undermine his credit, and to fill the minds of the Company's officers with distrust and jealousy of their commander-in-chief. To employ, to undermine, to discredit, to sacrifice, and to betray is the common policy of government. His lordship's friends I hope, will observe and attend to what I say.

In speaking of the Company's establishment as sufficient for the defence of India, I have always supposed it to be kept complete. If not, you may increase your nominal force, *ad infinitum*, but no establishment will be sufficient. You have heard, in the midst of your slumbers, you must have heard, that right hon. gentleman's voice, when he told you, and for three hours together, though long after midnight, he told you nothing else, that the Company's recruiting service was on so wretched a footing, that no advantage had been obtained, that no success was to be expected from it. Why the Company's? The whole military government of their affairs is vested in the Board of Control; that is in the president; that is in himself. If the Company's recruiting service be on a bad footing, why does not he put it on a better? Will you suffer him to justify a criminal act by a criminal omission? Will you allow him to defend himself by his own wrong? If the Company's recruiting service be improperly conducted, he, and he alone, is answerable for it. But, admitting that evil to be incorrigible, is their no alternative? In former times it was the practice, when the occasion required immediate dispatch, to complete the regiments on foreign service by draughts from the regiments at home. Why not do so now? You then would have a supply of good, serviceable men, and the Company, I am sure, would be glad to pay any price for them. That remedy is obvious and easy; but it would not have answered the right hon. gentleman's secret purpose. I beg of you for a moment to compare the evil as he states it, and the remedy he has applied to it. The Company's regiments are extremely defective, and they have no success in recruiting. To supply this defect, and to provide for the permanent defence of India, four new regiments must be instantly

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raised in England. Encouragement must be given to the efforts of individuals, by rank and promotion. There is no other effectual method of raising men for the service of India. All this you have heard a hundred times from the hon. gentleman, without the smallest variety of words, or relaxation of tone. Well, Sir; of course you will expect, that these regiments at least shall be effective. Are they so? Look at the returns upon your table, and you will see that, at this hour, they want above a thousand men to be complete. The result therefore, of the whole operation is, that he adds one negative to another; that he supplies deficiency by defect, and sends out a skeleton to embody a shadow.

You have heard much of the patronage aimed at and acquired by the present measure. The fact cannot seriously admit of a doubt, though it does of a dispute, that the distribution of commissions to four new regiments gives the right hon. gentleman a considerable increase of personal influence. I cannot help thinking, however, that there is something suspicious in the vehemence with which the fact is disclaimed, and the palpable truth of it denied. This, I conceive, is not the charge, of which the hon. gentleman is in reality most apprehensive. The zeal and passion with which they bring all their defence to bear upon this point, is, in my opinion, affected. What they mean is, to mislead the pursuit, to divert your attention from the main and essential to the collateral purpose of the measure. Undoubtedly the acquisition of patronage makes a part of their plan. But the increase of power in their hands is their real object; the increase of military power is at the bottom of it. Let them take care what they do. Let them consider well the consequences of what they are doing. Have they provided against all the possible effects of such an innovation in India? Are they sure of the event? Are they quite certain that, while they look to nothing but an augmentation of military strength, to be disposed of, and employed by themselves, they may not lay the foundation of weakness, discord, and distraction in that country? Experience, I think, should have taught us, by this time, how to measure the interval between prophecy and history.

There is but one object more to which I shall endeavour to draw the attention of the House. The East India Company's charter is now to expire in a few years; and we have been repeatedly assured, that when that period arrived, a new general arrangement of the affairs of India would be proposed, *de integro*, to this House; that the whole Indian question, with every thing that belonged to it, would be fairly brought into the view, and submitted, untouched and entire, to the unembarrassed deliberation, and unprejudiced decision of Parliament. Is that still the intention of Government? If it be, the ministers of the Crown ought to declare it so. If they do not, this House has a right to conclude, that the measure is calculated and intended, some way or other, to straiten and confine the freedom of that great parliamentary deliberation; to invade the question; to prevent its coming untouched and entire before us, to fetter us now, by executive measures, which, at a future period, may not easily or safely be retracted, and to force the legislature into a partial discussion upon the future permanent government of India. The less that ministers are inclined to declare themselves frankly and honourably on this subject, the more, in my opinion, it deserves the immediate attention of the House of Commons. Returning now, Sir, to the question, on which I am to vote, I declare, upon my honour, that I think this Declaratory Bill asserts a falsehood, a palpable falsehood, which no qualifications can convert into truth. I shall, therefore, give my most clear and determined vote against it.

Alderman *Le Mesurier* said, that it was to no purpose in forming a judgment of what was the necessary and adequate force for the security and protection of our territorial possessions in India, to recur back to such records as those to which the hon. gentleman who spoke last adverted. Sir Walter Raleigh, it was well known, had written a treatise to prove that ships of war ought not to be above a certain size. We might as well, therefore, go back to sir Walter's doctrine for our guide in the formation of modern British fleets, as to the opinion of general Lawrence and lord Clive, with respect to what was the necessary force to protect and secure our present possessions in India. He said, he had voted for the Bill in all its stages, as he was convinced it gave no new power to the Board of Commissioners; he was one of the committee of proprietors who were active in opposing a former India Bill, and in supporting

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the latter, and he was convinced it was their meaning, that the powers to be conveyed to the Board of Commissioners were to be efficient, and something beyond the negative powers now argued upon; for the negative powers were given, in their full extent to his Majesty's ministers by the 21 Geo. 3, and it was felt by the legislature and the nation, and acceded to by the proprietors at that time, that those negative powers were not sufficient, but that something more should be yielded by the Company. It was on this principle, he conceived, that the Act of 24 Geo. 3 was founded; and, certainly, it was on a different ground that the former Bill was opposed by the nation; for, if the petitions of the Company to both Houses of Parliament against that Bill were referred to, it would be found that the main objections were, that it enabled persons unfairly to seize upon all their commercial property and concerns, and to carry on a trade therewith without the consent or control of the Company. The commercial rights, he conceived, were preserved by the last Bill; but as to the invasion of the Company's charters, certain it was that they had been attacked before either of those Bills were in contemplation; for, the Act of 13 Geo. 3, which took away the right of voting from all proprietors possessed of less than 1000*l.* stock, and created a governor-general and council, first violated the rights of the Company. The Act of 21 Geo. 3 went farther, and decreed the nation to be entitled to participate in the revenue and acquisitions of the Company; after a division to the proprietors of 8 per cent. on their capital, in the proportion of three to one. Under these circumstances, he should imagine, that no one entertained an idea that the nation would not expect the Legislature to take a very considerable share in the management of those territories and revenues in which they had decreed it to be so materially interested. These, according to his sentiments, were the sentiments of the proprietors at the time when the last Bill was under their consideration. With respect to the military establishment at Bengal, it had been settled at 5000 Europeans; but it was nothing like that number. He therefore thought it his duty, as one of those who had fixed the military establishment at that number of Europeans, to accept of the force last offered, being conscious that the Company's mode of recruiting was inadequate to the procuring the number of recruits necessary to complete their establishment. As to the observations thrown out by the hon. gentleman, that a better mode of recruiting ought to have been adopted, if there was blame in this respect, it ought not to lie at the door of the Board of Commissioners, as they had done all in their power to put this part of the service on a better footing.

The House divided on the question, That the Bill be now read a third time:

	Tellers.	
Yeas	Mr. Neville Mr. Macnamara	127
Noes	Lord Maitland Mr. Grey	78

So it was resolved in the affirmative.

Mr. *Sheridan* begged leave to submit to the House a clause, by way of rider, declaring, "That this Act, and the Act of the 24th year of the reign of his present Majesty, shall continue in force no longer than during the continuance of the present Charter of the East India Company." He said, that it was extremely necessary that the Company, when their charter expired and deprived them of their exclusive monopoly of trade, should not any longer be liable to the superintendance of the Board of Control.

The question for bringing up the clause having been put,

Mr. *Pitt* declared, that he felt himself under the necessity of resisting the motion. In the first place, it was wholly unnecessary, as the Board of Control attached solely on the civil and military government of India, and not upon the commerce of the Company. Besides, whenever the charter of the Company expired, if it should not be deemed proper or advisable to renew it for a fresh term of years, the then novel situation of the Company would necessarily prove a circumstance to be discussed in that House, and a circumstance for parliament to act upon. It was, therefore, highly improper, to anticipate any one of the questions then to be brought into agitation. Besides, as far as he could collect the wording of the clause, as the hon. gentleman had read it, notwithstanding his reflections on the inaccuracy of bills and clauses proposed by him, and those on his side of the House, it appeared to be imperfectly drawn. He asked, if the necessary negative words "no longer," were inserted in it. Upon the whole, he considered the clause as

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useless, and rather calculated to convey an insinuation on the whole Bill, than to answer any fit or necessary purpose.

Mr. *Sheridan* said, that it was undoubtedly peculiarly becoming the other side of the House to stand upon verbal precision, when they themselves were so remarkably attentive to that particular. The words, "no longer," were, it was true, omitted in the clause, as he supposed, through the mere error of the engrossing clerk. That error was easily set right. But, from the whole of the right hon. gentleman's speech, it was clear that he was utterly ignorant of every part and principle of his own Bill; an ignorance which he had manifested throughout the proceeding. The Board of Control had already extended their interference to the commercial concerns of the Company. In illustration of this, Mr. Sheridan mentioned the affair of the debts of the Nabob of Arcot, with which, through a false and forced construction of a treaty, the Board of Control had interfered. Another illegal interference was in the affair of the claim made upon the Company by Government, on account of the two lacks per regiment. The Court of Directors had desired time to inquire whether they stood indebted to government or not. They had laid the case before their counsel, and his answer had been, that the demand was illegal. They then said, that they would write to their servants in India, and get an exact account of the subject matter of that claim. They prepared the dispatches accordingly, and sent them to the Board of Control. The right hon. gentleman then went there, in his capacity of first in the commission, and there altered the Company's dispatches, making the Directors mistate their own accounts, and put them into such a form as must defeat the object of their inquiry in India.

Mr. *Pitt* said, that he should still adhere to his objection to the clause, and however ignorant the honourable gentleman might be pleased to pronounce him of his Bill, the honourable gentleman was clearly ignorant of his own clause; since, unless the House meant prematurely and unnecessarily to enter upon the discussion of a question which must come before parliament whenever the Company's charter should expire, his clause was totally inapplicable to the Bill in discussion. He laughed at the idea of the omission of the words "no longer," having been an omission of the engrossing clerk.

Mr. *Fox* said, the right hon. gentleman had carefully avoided taking the smallest notice of the greatest part of his hon. friend's speech, and he had acted wisely in so doing, because, he was persuaded, he could not give a satisfactory answer to any one of the charges advanced by his hon. friend against the Board of Control, of their having interfered illegally and unwarrantably in the commercial concerns of the Company.

The question was negatived. On the motion, That the Bill do pass,

Mr. *Fox* adverted to the questions that had, in the course of the debates, been so often stated relative to the interference of the Board of Control in the commercial concerns of the Company, and which had never received any other reply, than such as was an insult and a mockery to common sense. If the right hon. gentleman did not chuse to give any intelligible answer the House would form its own conclusion on his silence.

Mr. *Dundas* admitted, that the Board of Control had no legal authority whatever to interfere in any manner in the commercial concerns of the Company, and he was equally ready to admit that the Court of Directors had no legal authority whatever to send out dispatches to India through the medium of their Secret Committee. Having made both these admissions, he acknowledged, that the Court of Directors wishing to take the cotton trade on the coast of Bombay into the Company's own hands, in order to supply their China trade from Bengal, and knowing that the success of their design depended on secresy, and that if they sent their dispatches from the full court, their object might be defeated by the scheme being made known, and the private traders buying up the cotton on the coast of Bombay, had resolved to send their dispatches from the Secret Committee, taking upon themselves, at the same time, the responsibility of the measure, which they were aware was illegal. Under these circumstances, the dispatch came to the Board of Control, signed by the Chairman and Mr. Manship, a gentleman certainly not extremely friendly to the Board, and the Board became, if the House chose so to phrase it, blind instruments in the hands of the Court of Directors, and subscribed their signatures to the dispatch. This was the whole of that transaction. The Board of Control neither suggested the measure, nor took any other part in the affair than he had stated.

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Mr. *Fox* said, that from what the right hon. gentleman had stated, the Board of Control, it was evident, had acted illegally; because, if they had not lent their authority in the case in question, the dispatches could not have been sent to India, through the unlawful medium of the Secret Committee. Mr. Fox took occasion to observe that the omission of the words, "no longer," really proved, upon inquiry, to have been a mere clerical error, as the words were in Mr. Sheridan's manuscript, which he was ready to produce.

Mr. *Sheridan* denied that Mr. Dundas had given a true account of the transaction. The Board of Control had done more than the right hon. gentleman had described. They had not acted as blind instruments, but as beings perfectly possessed of sight. They had altered the dispatch by omitting a sentence. Mr. Sheridan added, that, as all hope of defeating the Bill was then over, he would not trouble the House any more than merely to take five minutes of their time in reading a statement of the different characters of the two India bills; a matter the more necessary, since in the whole course of the debates, the bill of his right hon. friend appeared to have been much misunderstood. Mr. Sheridan here proceeded to read the paper at length. When he had got about half through he was interrupted by

Sir *Robert Smyth*, who desired to know the authority of the paper, and whether it was an extract from a pamphlet, or a more authentic document. If it were the latter it might be laid on the table, and printed for the use of the members.

The *Speaker* said, that the hon. gentleman was perfectly in order to read the paper as a part of his speech.

Mr. *Sheridan* said, that he had before stated, that the paper was a description and comparison of Mr. Fox's India Bill and Mr. Pitt's India Bill, drawn up carefully by himself, and extremely necessary for gentlemen to attend to, as it would give a perfect comprehension of each.

After Mr. Sheridan had gone through the paper, the question was put, "That the Bill do pass," which was carried without a division.

Debate in the Lords on the East India Declaratory Bill.] March 17. The East India Declaratory Bill having been read a first time,

Lord *Porchester* rose to observe, that the Bill in its preamble stated, that doubts had been entertained as to the construction of the Act of 1784. He denied the existence of the smallest doubt; he could not strain his mind to the reception of a single doubt. Besides, what were the doubts in question? Not a mere shade of difference, not a slight distinction, but doubts as broad as the difference between plain white and jet black. Was it possible for such doubts to have existed, and not for every man to feel them. The contrary was the reverse, as he would prove to their lordships. He then went into an investigation of the clauses of the Bill, and reasoned upon them, after which he concluded with moving the following question to the Judges: "Whether, according to the intent and meaning of the Act of the 24th of his present Majesty, for the better regulation of the East India Company, &c. the committee for the affairs of India are competent at any time to direct, that the expense of raising, transporting, and maintaining such forces as may be judged necessary for the security of the British territories and possessions in the East Indies, shall be defrayed out of the revenues arising out of the said territories and possessions, such troops not being sent at the express requisition of the East India Company; and particularly, whether under the circumstances now existing, the said commissioners are not restrained by certain provisions contained in the said Act, from giving such directions?"

Lord *Hawkesbury* denied the necessity of putting any such question to the Judges, declaring that it neither affected the common law of England, nor any ancient statute, and that he saw lawyers enow present to solve any difficulty the House might entertain. He gave the House a detail of all the transactions between the Board of Control, and the Court of Directors hitherto, in order to prove that the latter entertained no doubts of the power of the Board to send out the regiments till lately. With regard to delay, which he conceived to be the sole end of the motion, there were very important and pressing reasons for using all possible dispatch, and these were the welfare and interest of the East India Company, whose ships were lying upon demurrage, at an enormous expense, and would lose their voyage, unless they sailed speedily, a circumstance that would occasion the loss of the China trade for the present year, which would deprive the

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revenue of a very large receipt, and consequently materially affect the finances of the country. Upon these and other political considerations, he should object to the motion.

Viscount *Stormont* denied that a question of fact had any thing to do with political considerations. No expense, however great, ought to weigh in the consideration of the present question. The sole matter to be decided was, did the Declaratory Bill, or did it not, contain a true exposition of the Act of 1784. He thought that it did not. He ridiculed the idea of resorting to political considerations where the question was an abstract question of fact, and appealed to the Bench of Bishops, as men used to abstract reasoning, whether it was usual with them to call in aid political considerations and future consequences, as illustrative of a positive fact? He ascribed the delay that had occurred, entirely to the fault of Government, and asked why they had not embarked the four regiments, and reserved the question of who was to pay for their maintenance and support for a future discussion in a court of law.

Lord *Sydney* rose to rescue administration from the charge of having themselves caused delay, and stated the dates of the different transactions between the Board of Control and the Court of Directors till the House of Commons was moved for leave to bring in the present Bill. With regard to sending the troops, the Company had refused to take them on board their ships, and it would have cost above 100,000*l.* to have sent them to India in transports.

The Earl of *Carlisle* denied that the noble lord had answered the noble viscount satisfactorily. He said, he had heard that wine was the better for keeping, but never before that Judges were only fit to explain ancient statutes. He should have thought they might have explained a modern one. The only doubts entertained about the construction of the Act of 1784, had been, he understood, among the ministers themselves.

Lord *Hopetoun* objected to the putting the question to the Judges, because he thought it unnecessary.

Lord *Loughborough* supported the motion.—He entered into a discussion on the nature of declaratory bills, observing, that they necessarily ought to be attended with more than ordinary deliberation. The case was different with an enacting law; there, if occasion required, precipitation might be used. He had heard, that so far from the three regiments being ready for embarkation, they had not been inspected on the day when the Bill passed the Commons, and were 1000 men deficient of their complement.

The *Lord Chancellor* urged the House to consider, that the true meaning of the question was, not whether the Bill should be delayed a day or two, but whether it should be delayed to the 10th of April. He referred to a declaratory bill, that had passed as quick through the House as it was wished that the present should; and reminded their lordships that the Company's ships were laid in port upon demurrage, at the enormous expense of 3 or 400*l.* a day.

Lord *Loughborough* said, the declaratory bill referred to by the learned lord, was that respecting the 6th of George I, relative to Ireland; and there was, he recollected, another declaratory bill relative to America; but both of them referred solely to questions of state. The present Bill contained in it matter of private rights, and therefore the case was extremely different.

Earl *Fitzwilliam* spoke in favour of the motion, and reminded the House, that the declaratory bill relating to Ireland had been a bill of repeal, and therefore it needed not to be delayed so much as other bills usually were; the fact nevertheless had been, that it was not precipitately passed, but a day or two had occurred between each stage of it.

The question being put, the House divided: Contents, 30; Not-Contents, 76.

It being then moved, "That the Bill be now read a second time," the duke of Norfolk moved by way of amendment, "That the Bill be read a second time on Thursday." The question being put, that the word "now," stand part of the question, the House divided: Contents, 75; Not-Contents, 32.

Lord *Walsingham* then rose, and defended the Bill from the objections that had been suggested against it. He said, he was clearly of opinion that the construction put by it upon the Act of 1784, was the true construction. Had ministers introduced an enacting, instead of a declaratory bill, it would have been an *ex post facto* law. No doubt had been entertained of the powers of the Board of Control till lately, and therefore it was highly necessary to clear up those doubts.

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He stated, that it was intended to do something for the Company's officers immediately, but that it was a delicate matter for Government to manage.

Viscount *Stormont* said, it was impossible for him to suffer a bill to pass of a tendency so extremely dangerous to the constitution, and of a nature perfectly fallacious. The Bill declared not only that which was not truth, but what was repugnant to the express stipulation of all former statutes, and avowed a doctrine which, on the passing of the Bill in 1784, the conduct of ministers unequivocally disclaimed. That it should have attained a stage so advanced, was as if a fever had obliterated every sense of its danger from the memory. The Bill of Mr. Fox, previously introduced to their lordships, had been with the greatest industry, most maliciously misrepresented, and basely and meanly traduced, because it openly and honestly confessed a design to transfer to others the management of the Company's affairs. Immediately on the declaration of it, the nation was alarmed; and the present ministry, by their bitter opposition to it at the time, increased to a violent degree the antipathy of the people, and declared the remedy proposed was too harsh and powerful for the disorder it aimed to cure. They then offered to administer milder, though equally efficacious applications; which prescription the Company were then happy to take, but now find that it contained all those destructive ingredients which so strongly offended them in Mr. Fox's Bill. His lordship defined those controlling and superintending powers with which Mr. Pitt's Bill invests the Board of Control, and defied those who had attended most to the letter and spirit of the Act, to point out any one instance, by which the Board of Control could claim an originating power over the revenues of the Company. The reason why it was, on that point, so explicit, was owing to a casual omission in the Bill; but, could it for a moment be conceived, that the point contended was so very important, so materially necessary for both parties to have a clear understanding of, that it could not possibly be considered in that light. He read some extracts from the Bill of 1784, tending to show that the Board of Control had not the power over the territorial revenues, which they now claimed from the India Company, who were placed by the Declaratory Act in the situation of a corps of Jesuits, commanded by their general, the Board of Control. His lordship spoke of an absurd predicament the court must feel themselves in by having been deluded into an opinion of their having a right, which the Board, in spite of them, pretended legally to possess. His lordship next adverted to the shameful neglect and inattention of the naval department of the country, in leaving India, ever since the conclusion of the peace, so totally devoid of that protection which was so essential for its safety and defence, at the late period of alarm, when the country was threatened with hostilities. Had France acted otherwise than she did with regard to Holland, there were in India four Dutch ships of the line, and some French frigates, that might have materially annoyed the Company's commerce, before any British naval force could have reached the settlements of the India Company. His lordship proceeded to state the extraordinary latitude that would be given to the Board of Control, if the Bill passed; they would be empowered to carry into execution any scheme of fortification which the duke of Richmond, from his known partiality to such projects, might choose to recommend.

The Earl of *Carlisle* said, that notwithstanding his noble friend's speech was replete with sound argument, ministers he saw meant to treat it with contemptuous silence; he therefore felt himself under the necessity of adding some farther arguments to those of his noble friend. He then went into a comparison of the two India Bills, declaring that the Bill of 1783 was a strong, manly, open measure, truly depicting the character, understanding, and heart of its author, while that of 1784 proved that the right hon. gentleman had a very different sort of understanding and heart. His lordship spoke of the checks and guards contained in the latter clauses of the Declaratory Bill, observing that they were all prospective and not retrospective, and therefore did not diminish the patronage already possessed by the Board of Control. He ridiculed the idea of a minister's calling out for obstacles and impediments to his own measures, and saying that he should consider those as his best friends who suggested the most effectual checks. Lord Carlisle declared, that it was the strangest demand upon friendship that he ever heard of. The checks offered by the minister's friends were more likely

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to be silken chains, and ligatures of lighter weight than hard manacles; fetters like those in the Beggar's Opera, which sat as easy as a glove, and were such as no gentleman need be ashamed to wear.

The Earl of *Tankerville* entered into a panegyric on the political character of Mr. Fox, and next proceeded to his own vindication, for having voted for Mr. Pitt's Bill, as he had till now always understood that its object was only to control and superintend the government of the civil and military concerns of the Company. He was no friend to declaratory bills in general, but he was decidedly against the present, as it not only went beyond the true interpretation of the Act which it professed to render more explicit, but contained new enacting clauses, which ought never to be admitted in bills explanatory of former laws.

Lord *Rawdon* professed himself a determined opponent of a measure so hostile to every feeling which he possessed, when he concurred with ministers in the Act of 1784, which this Bill pretended to explain. He was a friend to the measure of 1784, because he conceived it left the power in the hands of the Company, and gave only a control in certain specified instances to the Board of Commissioners. He declared there was no difference between the system of 1783 and that now obtruded on the House, except in the manliness of the proceeding. The former Bill did that with openness and publicity, which the present struggled for obliquely and under cover. He was, therefore, a determined enemy to the measure, and must say, at the same time, as an officer, that the conduct with respect to the Indian army, and to the corps now going out, was unjustifiable.

The Duke of *Richmond* said, that he, like a noble viscount who spoke early in the debate, was peculiarly circumstanced on the present occasion, since he had never yet been pleased with any of the bills for the government of India that had been brought into parliament. He was displeased with all the schemes that had been suggested, because he was ever of opinion that the management of the affairs of India was in the best hands, when it rested with the Company themselves. He had opposed the Bill in 1783, because it violated the charter of the Company, and vested the immense power arising from India in the hands of a set of gentlemen appointed by parliament, but not responsible, that he could find, either to Parliament or the Crown. He opposed the Bill in 1784, because it gave the power to another set of men appointed by the Crown, and which accordingly gave to the Crown an enormous addition of power. That the Bill of 1784 did give to the Board of Control complete authority, he was always of opinion—he opposed it because it did so—but being of that opinion, he must justify the present Bill, which, in his mind, was a true declaration of the fact. He could not plead the argument of some noble lords for changing the ground they had taken in 1784; but considering this a second part, or a confirmation of the Act of 1784, he must persevere in opposing that which he had originally thought wrong. But when it was argued that this Bill was equal in point of violence to that which was generally called by the name of a right hon. gentleman, his near relation, but whose name on that, or upon any measure, he would never use, it was certainly wrong. It would be equally true to say that the part was equal to the whole, and the attempt of that side to convince the Company that the Bills were equal was ridiculous. The Bill of 1784 was declared to be necessary, on account of the enormous abuses committed by the Directors, and under this specious pretext much obloquy was, in his mind, unjustly thrown upon them. But what was now the conduct of that party? They went to the Directors, and said, "Gentlemen, we have proved that you have notoriously abused your trust—we have treated you with the utmost disrespect, and have endeavoured to take from you every thing that you possessed; but we have failed, and now there are other persons nibbling at you—they certainly will undo you, if you do not throw yourselves upon us for protection." Such, he imagined, was the sort of speech which persons of that kind must make in addressing the Company on the present measure; and a noble viscount, who was fond of speeches, and who, in speaking, chose to turn and direct himself to the bar, particularly when he talked about fortification, might indulge himself, if he pleased in speeches of this sort. But he confessed, for his own part, he saw the present Bill in a much less formidable light than the Bill of 1783. Patronage was certainly inseparable from power; but when he saw such pains taken to guard the patronage, and to tie ministers down against the improper use of it—when he saw that

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it was not to be used but for what it ought always to be used—the good of the service, he could not view the measure with the same jealousy that he looked on the other; and could not think lightly of the checks which the minister had imposed on his own conduct.

Viscount *Stormont* retorted on his grace, who was, he said, the master-general of order as well as of ordnance, but who, with all his knowledge, had been mistaken, since his conduct had not been disorderly. His lordship resumed that part of his argument respecting the neglect of the defence of the East-Indies by sea, and declared that since sir Edward Hughes left that quarter of the globe, we had not any ships of war there, so that if an enemy thought proper, all the trade of India might be captured as it came out of the mouth of the Ganges.

Viscount *Howe* said, that the protection of the distant settlements must be attended to in the distribution of our force, in proportion to their importance and the danger of an attack. The West-India islands consequently claimed a preference. With regard to the East Indies, if any noble lord would make a charge against him on that score, he would meet it fairly, since, he well knew he was responsible for such a distribution of our naval force as should cover all our valuable possessions.

The Earl of *Sandwich* said, that the noble viscount's answer had not gone far enough. It was no answer at all to say the West-India islands claimed a preference. Surely we had ships enough to spare some for India. This matter ought always to be attended to. It was of very great importance, as the country powers judged of our strength by our naval force.

The Marquis of *Lansdowne* said, that independent of the questions respecting the justice of the acquisitions in India as they regarded the natives, and the rights of the Company, left undecided by seven acts of parliament, but now virtually and hastily decided by the present Bill, various fundamental questions occurred: as, first, touching the real advantage of the possessions; secondly, how they were to be administered; thirdly, the like respecting the commerce; and fourthly, how our own constitution might stand affected. When he was Secretary of State, in 1767 and 1768, these subjects were much discussed, but were deemed too important for persons of that time to decide. Mr. Fox's Bill in 1783 certainly contained matter which required its being sent to a committee; and Mr. Pitt's Bill in 1784 was supposed wisely to wave the question, on account of the heats of the time. In 1767, there was no proposal which did not go to indemnify and reward the Company, and place it as a separate body between this country and foreigners, both on commercial and political accounts.

At the present moment, his lordship said, his astonishment was excited on various accounts. He was astonished to find a decision now hastily gone into by those not distinguished by their experience, however they might be in other respects. It was the first duty of a minister to look to the prosperity and happiness of Indian nations; next, to the territories and possessions, and their protection against European and country powers; thirdly, to the discharge of the debts due to those who had enabled us to support the struggle; and then, and not before, to the investments. Thus the old proverb became inverted, and, instead of being just before we were generous, we are first generous, secondly political, thirdly just, and lastly commercial.—His lordship said, he was astonished the more, as we might now proceed on facts and experience, and not as in 1767, upon speculation only. Accounts might be produced—the account of the last eight years, for example, proving 500,000*l.* paid by the commerce to support the territories, over and above their produce. If any abuses existed, it should be shown whether they were in the commercial part of the management; and whether or not they are now remedied, or will be so, by political management.—He was farther and still more astonished to find it insisted upon, that the principles of the present Bill were contained in that of 1784. This was to be refuted in various ways: first, upon negative grounds; for example, the Lords did not commit the Bill of 1783, because it was inexpedient in its principle; and yet the Bill of 1784 was now maintained, as holding one and the same principle. The particulars of the two Bills were in favour of that of 1783, which proposed parliamentary commissioners for four years. It would now be expired; though had it been longer, even life employments were constitutional. As to the Crown's not appointing, or removing the commissioners at pleasure, this was not a serious objection to those who had complained so lately and so

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loudly, and it might be added, so justly, against influence; since after fifteen years opposition, and an unsuccessful war, the public had only seen the board of Green Cloth removed. If the power now proposed should once be given, what time and exertion then would not be called for to recover it? If it was capable of erecting a fourth estate, and overturning the constitution in fourth hands, how much more capable of mischief, if united in one of the three estates, and that the Crown, there being eleven millions sterling per annum to administer, including the disposition of the landed estates in India?—The two Bills differed in another respect, as to commerce; which was again in favour of the first, provided it was intended to increase our exports; for the commerce of the Company certainly required inspection, as their exports might be increased, which are now only one quarter of their tonnage; that we might not only have the present seven thousand tons employed in shipping, but two thirds of the fifteen thousand employed by foreigners. A comparison of the two Bills, however, though natural and reasonable to a certain degree, was not the parliamentary standard, but truth, justice, and sound policy; and as there was no infallibility pretended to in the Bill of experiment, it was right to look to the experience we had obtained since 1783. His lordship then proceeded to state, as negative proof, the records of the Company; which showed, that a clause, tantamount to the present Bill, had been struck out on their representation; as also the evidence of Mr. Pulteney, a lawyer, a man of property, a member of parliament, and a witness, as might be seen in his pamphlet, written at the time. It was the natural artifice of office to invent pretexts, and to assign a meaning to words, which did not originally belong to them; but it was too Machiavelian a policy for him to impute, that the words were originally intended as a lurking cover to the power now pretended to be founded upon them. And that the words did not bear the assumed construction, was clear; for the word "revenue," as Mr. Mansfield's opinion stated, could never have been omitted, as Mr. Scott's opinion intimated, by a slip.—His lordship now went upon a positive line of argument against the principle of both Bills. As to that before the House, he stated, that its professed object was a gross abuse of power. The Bill had a bad military principle; for our present policy of having many officers and few men, was exploded through Europe; being calculated only for patronage. Even the Prince of Orange exploded it, as a peace establishment; and it was doubly culpable in India, where a war establishment is professed; and it was doubly dishonest to filch patronage from the Company, at the Company's expense. The Bill was bad also on economical principles, as had been clearly proved by a variety of calculations. It was also unjust, respecting the Company's military officers, and the most alarming consequences were to be apprehended from it.—His lordship next censured the Bill, as covering principles ruinous in point of policy and constitution. For example, it committed Government in the eyes of all Europe, and risked the Company's trade and creditors, and brought to mind Mr. Pulteny's expressions respecting Mr. Fox's Bill, "that it would involve the personal interest, or rather the personal power, of a formidable aristocracy in this kingdom, in the preservation of our Indian territories, at all hazards; which might be attended with the most serious consequences, and expose this country, not only to certain bankruptcy, but to the being left, at a critical moment, almost defenceless and open to invasion." How much stronger was this reasoning, when applied to the Crown! In case of necessity also, the Company could now no longar cede possessions, without including dishonour to the Crown or nation. The Bill gave, likewise, the whole power to the Crown; the clauses being no check, and only rendering corruption more necessary, and impeding execution, by producing confusion and diffidence. The Board of Control would obtain the influence through the agency of the Court of Directors, and of the persons in office abroad. What was called the Querelle Allemande would soon be repeated; for when the German princes, who were empowered to levy troops but not to levy taxes, wanted money, they began by raising troops, and the taxes followed. So in the precedency, lately established in the excise and customs, in favour of a commissioner at each Board, it was not to be supposed that treasury-recommendations of individuals would be refused, by the commissioner saying, that the places in those departments were only to be given in the way that should preserve the balance of the constitution. In short,

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notoriety of a power existing any where, was the best check to its exercise. Parliament could be no check, for Parliament would itself be controlled by it; besides, Parliament was incompetent; it was a deity with two aspects, carrying a cornucopia and blessings to us at home, and a Medusa's head to all our dependencies. There were various examples of this; Canada was one; a still greater was America. His lordship said, many books would be written about the causes of the American war; but he was old enough to remember, that it was the Crown's policy to keep out of Parliament's hands, till it became unable to cope with the spirit of liberty the colonists carried out with them. Then came the unfortunate invention of a participation with Parliament, which changed its own nature, and, by acting upon monarchical and not democratic, upon executive and not legislative principles, lost her great power as a check. But happily, for the constitution at least, we lost America, as Parliament could not have administered it, and it must have destroyed all balance in the constitution. India was precisely in the situation America would have been in, had she been brought to unconditional submission; and the futility of parliamentary checks could not, in the nature of things, be so clearly exposed, as by what passed, when the papers were refused, respecting the debts of the Nabob of Arcot, where the Company was deprived of 130,000*l.* per annum by the Board of Control, and respecting the tribute of the Rajah of Tanjore, where it was deprived, contrary to promise, of 120,000*l.* per annum. In the former case, there was a gross violation of the 37th section of 24th George 3, and a collusive struggle countenanced between debtor and creditor, to the Company's detriment. The very allegation that Parliament was blameless of certain things in India, because it could not know them, showed how unfit she was to act an extensive part; and after she had acted, she was certainly unfit to sit in judgment. Parliament was only to be reserved to act judicially. There was a farther objection to be drawn from considering to whom the power was given. It was giving sheep to the lion; to candidates for political power, who had got up three-fourths of the ladder, and only wanted this to get over the other fourth. Lord Clive had said, flesh and blood could not withstand temptation in India; but could it do so any where? and was not power still more difficult to withstand than money? As to the commerce of the Company, it must be destroyed, as being made subordinate to what respected the natives, to a war establishment, and to political management.—His lordship observed, that it was held absurd to suppose that the Bill of 1784 did not bear the construction in question, as without this construction, India would be without a system. But this was begging the question, that the system was a proper or a complete one; besides, most things were jobbed or pieced up, and this act was notoriously so, to content parties. But was a negative in the Board of Control no power? Had the King no power? the Privy Council, under Poyning's law, in Ireland, no power? the Judges no power over private bills? Was not a negative an important piece in the whole game of government? It might be shown a most powerful principle, and adapted to produce the greatest good.—It was said too, what would become of India, should the Company not exert itself? He would ask, what would become of England, should Parliament fall asleep? It was clear, this argument would go to give the king all power.—It was alledged, that these things could never be tried in Westminster-hall; it was too great a question: but did this go to prove that it should be carried through the House, without any forms of law, or the essential ones of justice; such as hearing of grievances on one side, and the Board of Control on the other; and seeing the papers he had alluded to, which should not be taken on any private testimony, especially as there was no need of any hurry? Let a short bill be passed to send the four regiments, if wanted; give the officers rank, to prevent bad consequences; and let all meet in good humour to discuss the great question. One party might be very well content with the bill of 1784, which had given them four years government of the country, which they had little right to expect; and, if they did not filch patronage invade rights, and figure in generosity, at the expense of others, they were welcome, for him, to twenty-four. On the other hand, the party of 1783 might be content; and considering all, perhaps they scarcely expected to see themselves white-washed as they were. It was seriously the interest of all within and without our doors, to reconcile, if possible, the most difficult problem that ever occurred in the history of any

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country; namely how two such islands as Great Britain and Ireland should keep the Mogul empire dependent! and what was still more difficult, as well as more important, do this without ruin to itself, and without destroying our nicely-balanced and happy constitution: and it well merited immediate, but cool deliberation, free from allusion, and open to every information.

The question being put, that the Bill be committed, the House was divided: Contents, 75: Not-contents, 27.

March 18. The House having resolved itself into a Committee on the Bill, and the question being put, "That the consideration of the preamble be postponed,"

Lord *Loughborough* conceived that their lordships could not, with propriety, postpone the consideration of the preamble to a Declaratory Bill, because it was in the nature of the preamble of a Bill of that description to contain the basis of the whole of the subsequent clauses, and to propose that question which the first enacting clause resolved. If the preamble was unfounded, the whole of the Bill must of course be erroneous.

The *Lord Chancellor* said, he had ever understood it to be the practice of the House to postpone the consideration of the preamble of bills of every description, till after they had discussed the enacting clauses, in order that the preamble might then be rendered such as would best lead to the clauses, and explain the general principle of the Bill; but if, on the present occasion, the noble and learned lord wished to consider the preamble preliminarily, he had no manner of objection to go into that consideration first.

This matter being adjusted, the preamble was read at the table, after which

Lord *Loughborough* remarked that if their lordships examined the preamble, they would find that an egregious inaccuracy had occurred. After the words, "in the manner in the said act directed," the words, "And whereas the Court of Directors of the said Company is required by the said Act to pay due obedience to, and to be governed and bound by, such orders and directions as the said court shall from time to time receive from the said Board touching the civil or military government and revenues of the said possessions," were copied from section 11 of the Bill of 1784, the whole of which section related merely to the means provided "to the intent that the said Board may be duly informed of all transactions of the said Company, in respect to the management of their concerns in the East Indies," by giving them access to all papers and muniments of the Company, and requiring and directing that the Directors shall deliver to the Board copies of all minutes, orders, &c. His lordship urged the absolute necessity of an alteration in the preamble of the Bill, to reconcile it to sense and reason, and declared, that if no other peer would move an amendment, he would propose to insert the whole of the 11th section of the 24th of George 3, in the preamble.

The *Lord Chancellor* stated what he conceived to have been the origin and object of the institution of the Board of Control, the powers with which it was vested in 1784, and the extent of those powers, as recognized and declared by the present Bill. With regard to the words adopted in the preamble of the Bill from the 11th section of the Act of 1784, those words appeared to him very clearly to give the powers that the present Bill declared the Board to possess. He should therefore wish the preamble to stand as it did.

Lord *Porchester* argued that the amendment was indispensably necessary. He contended that the close of the 11th section of the Act of 1784, adopted in the preamble had a preamble of its own in the Act from whence it was copied, and that its true meaning was falsified by being separated from its preamble and context. He insisted that the Board of Control had no power of originating dispatches or orders of any kind whatsoever, but under the 13th section of the Act of 1784, which gave them a power to prepare and send any orders or instructions to any of the East India governments or presidencies whenever the Court of Directors should neglect to transmit to the said Board their intended dispatches, within fourteen days subsequent to any requisition.

Lord *Hawkesbury* combating this idea, supported his doctrine by a reference to the various clauses of the Bill of 1784, and said, that the 14th clause put the matter beyond all question. That clause gave the Directors a right to apply by petition to his Majesty in council, whenever the Board should send any orders or instructions to the Directors, which, in the opinion of the latter, should relate to points not connected with the civil or military government and revenues of the said ter-

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ritories and possessions in India. It was clear, therefore, since an imputed interference in the commercial concerns of the Company was the single description of case in which an appeal to his Majesty in council was given the Court of Directors, that the Board of Control was restrained in no other. When it was considered that the Board of Commissioners had been instituted for the express purpose of superintendance and control over the affairs of such magnitude as the whole civil and military government of India, and the management of its revenues, it surely did not appear consistent with the dignity of a Board of that elevated nature, to be deprived of the most effectual means of control, and to be supposed not to have the power of sending out dispatches themselves, whenever the Directors should neglect to submit necessary dispatches for their inspection and approbation.

Lord *Loughborough* insisted, that it was a singular mode of laying down a rule of construction in the exposition of an act of parliament, to plead the dignity of the Commissioners, and to contend, that on the ground of dignity they must have a right to order the Directors to do as they pleased. In so absurd a case, a commissioner might thus address himself to the Directors: "By my dignity I order you to send such and such dispatches," just as it had been said elsewhere, *quia eo sum*, which was in fact the true character of the Declaratory Bill. In order to show that the Act of 1784 did not give any power of originating dispatches, but under the restrictions stated in clause thirteen, he produced a written paper, and a copy of the Bill of 1784, as it stood before it went to the Committee. He stated, that it had been submitted to the Court of Directors for their approbation, according to the prevailing principle of those times. The Bill then contained a clause, expressly empowering the Board to originate dispatches whenever they thought proper. At this the Directors took an alarm, and considering it as a total assumption of their rights, contested against it; the clause was in consequence given up, and omitted in the Committee. In conclusion he declared that, since the short amendment would not be received, he would move the long amendment, which went to the insertion of the whole 11th clause of the Bill of 1784 in the preamble.

The *Lord Chancellor* said, that he had prepared an argument against the question as he understood it to stand, but it was now changed to another question. Be it so. He would meet it on its own ground. He then argued the preamble as it stood, and entered into a defence of lord Hawkesbury from the sort of attack which had been made upon him. It might, he said, suit the purpose of other noble peers to advert to ridicule, for the purpose of decorating their observations; as for himself, he wished only to convey a plain meaning, in plain words. His near friend had not used the word dignity in the sense in which it had been attempted to be fastened upon him; he had not talked of the Commissioners with a view to the personal pride of the Board, as a mere shadow, but with reference to the importance of the institution, and the magnitude of the objects submitted to their management and control. The Bill clearly gave them the powers of management, the words of their oath showed their superior sense of the superintendence and control in which they were to act, and throughout every clause almost they were given powers, that proved what was expected at their hands, and which they could not possibly effect without having those powers which the Declaratory Bill stated to have been given to them. With regard to the originating clause which had been said to have been omitted, what better way was there to prevent the adoption of all that gross tautology that frequently escaped in the drawing of a Bill, than to omit a clause the end of which was answered by another clause.

After farther conversation, the Committee divided: Contents, 24; Not-Contents, 45. The Committee then proceeded with the enacting clauses, and lord Radnor moved to leave out the words "and declared;" stating that he had voted for the former Bill, but did not, at the time, conceive it contained any such powers as the present Bill declared it did. The question being put, the Committee divided: Contents, 25; Not-Contents, 46.

March 19. On the order of the day for the third reading of the Bill,

The Earl of *Hopetoun* said, he had not been in parliament when the Bill of 1783 was in agitation, and therefore could more freely give his opinion of that of 1784. That the Board of Control had been uniformly of opinion, that they had the powers over the revenues of the territorial possessions in India, which the Bill

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now declared them to have, was evident from one of their first acts in April 1785, within a few months of their institution having taken place. He here read the minute of their proceedings in sending out orders to Calcutta, that while there was a rupee in the Company's treasury there, the soldier must be paid, and that the discharge of the pay of the army must precede all other considerations. He reasoned upon this fact, and after stating that he spoke in that sort of character, which in the other House, was termed a country gentleman, adduced arguments, in support of his decided opinion that the Board always had, and ought to have, a power over the revenues of India. He should therefore vote for the Bill.

The Earl of *Abingdon* said:—My lords; When I gave my assent to the Act, of which this Bill is now declaratory, I stated my reasons for doing so, and having since had no occasion to alter my opinion, but, on the contrary, to be more fixed and confirmed therein, my assent will of course, go along with and follow this Bill. Nor should I have arisen at all, was it not merely to express my surprise at the necessity which seems to have arisen for the Bill; and to look from noble lords who are in the secret and intrigue of this business, for some explanation on this head. When the Act of which this Bill as declaratory, passed, I did conceive that if it were not in formation, it was in adoption, the very child of the East-India Company: that upon the disinherison of another bill which had sought not only subversion to their existence, but actual destruction to the very constitution of the country, that Act was taken and considered by them, as well as by the country at large, as the grand restorative of both. And yet, my lords, we now find this very Company so managed into inconsistency with themselves, as to be ready to pull down that golden calf which they themselves had erected for their own worship. And how shall we account for this? has the devil got into the herd of swine? Or is it some sower of tares that is gone forth to disseminate and to scatter the seeds of civil discord in the state? Or is it that some great political general, putting himself at the head of a scouting party of his own, is so manœuvering between the two grand armies of the whigs and tories, as to be ready to join either whenever the strongest of the two shall afford him the opportunity of doing so? Is this the case my lords? I fear it is; and would therefore wish to awaken your lordships' attention to the plan as well as progress of these movements. For myself, I am no spy; I leave that meanness to greater men than I am; but, like other people, I may have an eye out upon this occasion: and the time may come when my discoveries will not be kept a secret from your lordships. For the present, however, I have done.

The Bill was then read a third time. On the motion, that it do pass,

Viscount *Stormont* said, that although he had declared his sentiments on the present measure, he could not help troubling their lordships with a few additional observations. He reminded their lordships that they were now going to give to the Board of Control that power and authority over the whole affairs of the East India Company, civil, military, and political, which they had in 1783 refused to give to another Board. This would convince the world that their objection had not been to measures, but to men. It was a mockery to deny that they had the patronage directly which they exercised circuitously, and to say that they had not the power of appointing themselves, when they exercised that of putting a negative on the appointments of the Directors. What had they said to a person so appointed? "If a voyage to India be necessary to your health, or desirable for your pleasure, we will not, we cannot object to it. Go on board, sail for India, and we will add to your voyage thither the benefit, or the pleasure of a voyage back again, for, as soon as you arrive, we will recall you." If this was not patronage, what name would their lordships give it?—He had good authority for declaring that a compact had been made in 1784, between the minister and the Company; that a paper to that effect had been drawn up, to which the Chancellor of the Exchequer and the person who acted as agent for the Company, had set their hands and seals. He believed that this paper was still in existence. He declared, as a man of honour, that he knew not its contents, but he appealed to their lordships if it was not fair to argue, that where two parties met, whether kings or private persons, unless the one could hold a dagger to the breast of the other, the substance of their agreement could not be a total dereliction of the rights of one of them without any equivalent. The Company, therefore, if they were deprived of their rights, must

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have been imposed upon, must have been deceived; for it was not to be supposed that they would tamely yield up in 1784 what they had successfully defended in 1783. Yet this was the first act of a political character of unspotted purity; a person unpractised in deceit, unhackneied in the ways of men! Political virtues were like other virtues, progressive in their nature. If such had been the first opening of the bud, the first flower of the blossom, what might not be expected from the maturity of the golden harvest! Where were now the arguments that had been opposed to the author of the former Bill? On what grounds did the promoters of the present system come forward to demand for themselves those very powers which they had imputed to him as a crime to ask? Was it because they dreaded his manly and transcendent abilities, because he stood in the way of their own ambition, and must be removed at any rate? He wished this Bill, as it was now explained, to go abroad into the world, and to be fully understood by those who had been so much alarmed and so much offended by the other. The public might be misled for a moment, but there was in an English public a fund of good sense, that when left to itself would detect the imposition, and resent it when detected. And although he did not think that popular opinion ought ever to influence their lordships in deciding on any measure, yet before the tribunal of the public at large must the decision of every public body come, and its propriety or impropriety be ultimately appreciated. He agreed with the marquis of Landsdowne in many of the objections he had made to the Bill, and said he had given it a wound which it would never recover.

Earl *Camden* said, that he wished to speak thus early, from a fear that his health would not enable him to deliver his sentiments if he staid out the whole of the debate. He had been in Ireland in the session of 1784, when the 24th of the present King passed; to all the anecdotes, little tales, and secret histories of what had been either intended, or was actually said or done, either in the House of Commons or in that House, upon the subject, at the time, he was, therefore, necessarily an entire stranger, and of course could not, if he were so inclined, mix any such allusions with what he had to say to their lordships on the occasion. He wished to call their attention to the dry question of construction, merely to the exposition of the statute of 1784. A learned lord had, on the preceding Monday, laid it down as the fit rule of construction of an Act of Parliament, that the spirit and general purview of the Act, and the meaning of its particular clauses, must be looked to; and it was to this rule of construction that he was ready to subscribe, and to admit that it was the true and only rule of exposition of Acts of Parliament. That rule he meant to follow in considering the Act of 1784, which he had read again and again, and he would argue from it closely, having no doubt but that he should be able to prove, beyond all contradiction, that the Declaratory Bill gave the true exposition of the Act of 1784, and that it could not have been intended to have been otherwise understood.—He began with calling the attention of the House to the 6th section of the Bill, in which it is enacted, "that the Board of Control shall be fully authorized and empowered, from time to time, to superintend, direct, and control all acts, operations and concerns, which in any wise relate to the civil or military government or revenues of the British territorial possessions in the East Indies." He wished their lordships always to keep in mind the word "direct:" he was aware that the clause ended with the words, "in the manner herein after described;" that he meant to go into afterwards, but for a moment let those words be forgotten and put out of the question, as if they made no part of the clause. Had that been the case, there could not have existed a doubt of the intention of the Act, because it would have been impossible for the Board to be able to exercise the authority and power to direct all acts, &c. without having, at the same time, the power of originating orders and dispatches whenever they thought it their duty so to do. With regard to the words "in the manner herein after directed," a reference to the subsequent clauses clearly proved, that the Board were in the particular cases stated and described in those clauses, directed how to act, but that did not take from them the general power of superintendance, direction, and control in all cases not specified. He spoke of the 11th clause as illustrative of this part of his argument, and having commented upon it, took notice of the 13th, in which the word "revenues" is omitted, and civil or military government are the terms only used. That might, he observed, be an

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accidental omission; but coupling that clause with the 11th, and taking the general purview of the Bill into consideration, it was impossible to conceive that the Board were not equally vested with a power to originate dispatches in regard to the application of the revenues of the territorial possessions in the East Indies, as in regard to the civil or military government of those possessions. There was a clause in the Act, which had been mentioned by a learned lord, on Monday, and which he admitted, did appear to contradict the argument that he had been maintaining; and that was the 29th clause, in which it was enacted, "that no order or resolution of any general court of the proprietors shall be available to revoke or rescind any act, order, or resolution of the Court of Directors, after the same shall have been approved by the said Board." How that clause came into the Bill, or how it was suffered to remain a part of it, was to him a matter of astonishment, because if that clause was insisted upon, it in effect annulled all the active powers of the Board, and rendered the institution perfectly nugatory. That being obviously the effect of the 29th clause, it must have been through some strange negligence that it was suffered to stand in the Bill, and it ought not to be considered as having any operation whatever. His lordship reasoned upon this point, and said, so far was he from doubting that the Board of Control had a right to apply the revenues of the British territorial possessions in India, to their protection, security and defence, he held it to be their first duty, and if they were to sacrifice that important object to the purchase of an investment, or any commercial concern whatever, they would be guilty of a high crime and misdemeanor, and deserve impeachment. He was apt to suspect that there was some blame imputable to the Court of Directors, or the House would not have heard of any difference between them and the Board of Control, because nothing could be more clear, than that if the Directors did their duty, there could arise no dispute about the government of India. He expatiated on this idea, and appealed to the understandings and recollection of every man who heard him, whether the negligence or the want of capacity of the East-India Company and their Court of Directors to govern India, had not made it necessary for the legislature to interfere and appoint a Board of Superintendance, Direction, and Control, to guard against the dangers of any mismanagement. That Board being once appointed, was it consistent with reason and good sense, that it should be so ill instituted, and armed with such inefficient powers, that if the Directors chose to sit with their arms across, doing nothing, the Board could not of themselves act, where they saw it was actually necessary to send out orders and dispatches? The very nature of the case proved the contrary. There must be a paramount power, a power to direct, lodged somewhere. If that power was not vested, by the Act of 1784, in the Board of Control, he begged to be informed where it was vested? The Board of Commissioners, it would perhaps be suggested, might abuse their power. In like manner, the Governor-general and Council of Bengal, the Governor and Council of the Presidency of Fort St. George, and the Governor and Council of the Presidency of Bombay, all of whom were invested with large and extensive powers in their respective districts, might abuse their powers. Let it be remembered that they were all charged with responsibility, and were amenable to the laws of their country for their conduct. Let it also be remembered, that it was indispensably necessary that there should exist some sovereign authority over the Company's affairs in England, and in what hands could it more safely or more expediently be placed, than in the hands of a Board of Commissioners, all of them members of Parliament appointed by the Crown, and headed by two of his Majesty's principal ministers, the Chancellor of the Exchequer, and the Secretary of State for the southern department? Upon a fair consideration, therefore, of the spirit and general purview of the Act of 1784 and of its clauses, it appeared to him demonstrably clear, that the present Declaratory Bill did contain a sound and just exposition of that statute.—Much had been said on the nature of declaratory bills, on their infrequency, and on their danger. Two declaratory bills had been alluded to, but neither of them much in point; in the progress of his researches, he had met with another, a declaratory bill that came more immediately in parallel with the Bill then under consideration. In the reign of queen Anne, an Act had passed for the naturalization of all the children of British parents, such children being born abroad. That Act remained in force fourteen

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years, and then, in the 4th of Geo. 2, a declaratory bill was brought in to explain the Act of queen Anne, and to declare that the intention and meaning of that statute was not to extend to the children of British parents under attainder for high treason. His lordship said, he would not enter into any discussion of the ground and principle of the declaratory act to which he alluded; it was sufficient for him to state the fact, and to observe, that enacting clauses made a part of that Bill as well as of the present. There was an opposition at the time, but he could not find that there had been any debate upon the Bill; what he had mentioned, however, would serve to show, that declaratory bills had passed without alarm to the friends of the constitution, and without objection, although framed like the Declaratory Bill then before their lordships. Though in office himself, he declared he honoured an opposition; and he had no scruple to say, that he thought an opposition of great service to the country, when conducted on public principles. An opposition awed ministers, and kept them vigilant. It checked their career, put them upon their guard, taught them where error lay, and how to correct it. But he could not reasonably account for the conduct of the present opposition. A great part of their object in the debates in both Houses seemed to have been, to make it appear that the India Bill of 1784 was of equal extent, with respect to violence and assumption of power, with that of 1783. If he seriously thought the Bill of 1784 half as bad as that of 1783, he would not only oppose the present Declaratory Bill, but resign his place the next day. Both Bills undoubtedly broke in upon the chartered rights of the Company.—[A cry of 'Hear, hear!']—The fact was so, and he defied any man to say, who should cast the first stone, if a question was made of who had been the foremost to trench upon the Company's charter? It was done by the Bill of 1773, and by the Bill of 1781, and it was clearly done by each of the two Bills now talked of as comparative, the Bills of 1783 and 1784. In fact, no reform of the abuses and mal-administration of the Company's affairs in India, admitted on all hands to have existed, could have been effected, without a violation, or as he understood it was now termed, a suspension of the powers of the Court of Directors. The Bill of 1783 took from the Company every particle of power and patronage at home and in India; it aimed not only at divesting the Directors of their power in the civil and military departments, but in their commercial. The preamble began in an extraordinary style. It stated "that disorders of an alarming nature had long prevailed, and did still continue, in the management of the territorial possessions, revenues, and commerce of this kingdom in the East Indies." This was surely an extravagant turn of expression. Who before ever heard of a commercial company having been guilty of enormous disorders in the conduct of their commerce being made a plea for seizing upon all their property, power, and patronage, when all were either secured to them by charter, or sanctioned by statute? The Bill of 1783, however, aimed at seizing all the Company's warehouses, arsenals, ships, forts, money, bonds, and, in short, every thing they possessed, as well in India as in Europe. Were noble lords aware of the value of such a seizure, and the patronage it gave in the first instance at home. Did they know, that the buildings in Leadenhall-street, and the various warehouses in London and its environs, were estimated at 700,000*l.*? That the sums annually paid to tradesmen in London for goods to be exported, amounted to 700,000*l.* likewise; and that the freightage to India, and other expenses, made up the whole a million and a half, and more? What an enormous influence would not, or rather must not, have followed from this patronage? All appointments at home and in Asia would necessarily have been subject to the commissioners will. The Court of Directors, like so many clerks, would have come bowing to the levee of the author of the Bill, and surrendered the keys of their house in Leadenhall-street, and all the warehouses of the Company, with the most abject humility. Every tradesman, employed by the Directors would have felt the influence. Sail-makers, and those of the very lowest order of mechanics, might have been turned out of employment without knowing the reason. It was worthy of consideration also of whom the Board appointed by the Bill of 1783 were to be composed; of a party! and when he mentioned a party, he declared he meant no reflection. He had himself been of a party for some years, and had it so chanced that he had joined with the present opposition, he should have considered himself as honoured by his company and con-

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nexions. But the members of the Board, appointed by the Bill of 1783, were men of a certain description, and it so happened, that there was a smack of coalition in their composition. Perhaps that was no great recommendation to the public, any more than to him. Had that Bill been carried, it was beyond speculation even to set bounds to the extent of the exercise of power that the Board of Parliamentary Commissioners might not indulge in. In a year or two the Indian influence might have poured down to Westminster in a torrent and overwhelmed both Houses of Parliament; and had his Majesty thought proper by virtue of his undoubted prerogative, to have dismissed the author of that Bill and his party from his service, they might have seen the king of Great Britain and the king of Bengal contending in parliament for superiority. The Bill of 1783 would have created an *imperium in imperio*, a fourth estate, that might ultimately have overthrown the constitution. If the party who brought in and supported that Bill, really thought as well of it as they pretended, and imagined that the present Declaratory Bill would open the eyes of the public, and reconcile them to that monstrous attempt to grasp at inordinate power, he advised them by all means to take it in their hands, at the next general election, to hold it forth as the test of their political principles, and to rest their success on their promise to revive it.

Lord *Grantley* said, that as he should that night vote with those he was not accustomed to divide with, he wished to state his reasons for such a conduct. He had opposed the Bill of 1783, because he considered it as a violation of chartered rights; and he had voted for the Bill of 1784, which also violated the Company's charter, because he understood it had the consent of the Company; at least he heard of no opposition to it on the part of the Directors, or of the proprietors in general. Declaratory bills were generally dangerous, and never necessary, but upon very pressing exigencies, and then the exigency ought to be made out. The Bill appeared to him to be neither necessary nor fit to be adopted. If it passed, he should tremble for the precedent. The Act of 1784 was pronounced to warrant the exposition now given it. If that were true, what occasion was there to explain it by a declaratory bill? The title of the Bill was, "A Bill to remove doubts, &c." What doubts? The doubts of counsel! Not of the crown lawyers, for they all agreed that the construction of the Act of 1784 was clear and obvious. If Westminster-hall was not greatly altered since he left it, there was not an act of parliament in the statute-book, respecting the construction of which, counsel retained on different sides would not profess to entertain and state doubts; and where ought those doubts to be referred for solution? Indisputably to the courts of law, where the decision of the judges could be legally and formally obtained. What need, therefore, was there for the Legislature to interfere in their judicial capacity? Certainly none. Objections had been stated against proceeding in the courts of law, as difficult and impracticable. The fact was otherwise. Where an act of parliament did not specify and describe the sort of process to be pursued to punish its violation, all the common law remedies were applicable; besides, the Court of King's Bench was always open to entertain criminal prosecutions, either by information, filed *ex officio* by the Attorney-general, by indictment, or by writ of *mandamus*. —With regard to the plea of delay that would arise from the four regiments not being sent out in time to India, that plea would not lay in the mouths of his Majesty's ministers. Delay was a pretence they could never urge in justification of neglect or want of exertion. Their duty was to decide upon what was fit to be done; and having decided, they were bound to carry the determination into execution. In the case of sending out the four regiments, if they knew the measure to be necessary, they ought to have sent them out, and it by no means became them to talk of delay, when they were bound to act vigorously in all cases of real exigency.—From what he had said, he hoped he had made it apparent, that the Bill before their lordships was by no means necessary. He wished it was as innocent as it was clearly unnecessary; but the reverse, he was afraid, would be found to be the fact. It had been said, that if an Enacting Bill had been brought in, it would have been an *ex post facto* law, and would, by implication, have charged almost every act of the Board of Control with illegality. Was that assertion founded, and did the Board of Control mean to shelter their illegal conduct under a declaratory bill? He believed, that from their first institution, the Board

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had acted from the best motives, and done their country and the Company most essential service, from the wisdom and the policy of their measures; but, admitting the reverse to be the case, was a declaratory bill to be resorted to by way of indemnity? In the present case, the public and the Company were parties, not actually at issue, but nearly in a similar situation; and did it become the former to interfere prematurely, and in aid of its own cause, to pass a declaratory bill? The idea was shocking to every mind in the least alive to equity or justice. If the measure of sending out the four regiments was a fit measure, and he did not mean to argue against its being so, Government ought to have done it; and, if ultimately proved that they had done wrong, to have come to Parliament, and desired them to pass a bill of indemnity. The utmost imputation to ministers would have been, the commission of a mistake; and where the cause of action was good, or the motive was even plausible, Parliament was ever liberal, and ready to pass a bill of indemnity. Wise ministers had always acted upon this conviction. The learned lord who had just sat down, when a member of a former administration, had, in a critical moment, issued a proclamation, prohibiting the exportation of corn. The publication was so obviously founded in necessity, propriety, and expediency, that the good sense of the nation went with it, and no man thought of its being an act in open violation of the law; but the learned lord, scrupulous of establishing a precedent that might hereafter be perverted to abuse, and to a dangerous violation of the constitution, came to Parliament and desired a bill of indemnity, which was immediately and cordially granted him. His lordship mentioned a case that had occurred in council, when he was present, where a bill of indemnity had been suggested, which he had opposed as unnecessary; the case coming, in his opinion, clearly within the law.

Lord *Fortescue* argued, that it was not a question of private right, but a public question, and upon that ground he defended the Bill.

Lord *Hawke* opposed the Bill, and explained the circumstances of the Declaratory Bill of the 4th of George 2, alluded to by lord Camden, adding observations, to show that the House ought not to pass the present Bill.

Lord *Onslow* said, it appeared to him, that if the House did not pass the Bill, they would in effect give an opinion the reverse of that to be drawn from passing the Bill, and consequently do much mischief.

Lord *Loughborough* said, that it had been his intention to have called upon their lordships to favour him with some considerable portion of their patience, while he entered minutely into a discussion of the whole of the subject, but the very able manner in which the learned lord (Grantley) had argued upon the present Bill being both unnecessary and dangerous, had happily saved the House much time, and himself much trouble. He should, however, think it his duty, as shortly as possible, to state a few observations that occurred to his mind, as immediately applicable, and as indispensably necessary for their lordships to attend to. It had been very truly said, that declaratory bills were always dangerous. They undoubtedly were so, because, when those who made laws took upon them judicially, and in a capacity very different from that of legislators, to expound their meaning, infinite mischief was to be dreaded. Nothing surely could be more alarming, than for those who were to act under a law, to take upon themselves to pronounce upon its extent, and to define the limits of their own authority. Whenever such an attempt was made, the effect usually was (what the effect of the present Bill would be, if passed into a law) a declaration that their authority had no bounds or limits whatever. From the history of our statutes, declaratory laws were rather to be considered as beacons to point out those rocks and shoals that were to be shunned and avoided as dangerous, than as precedents or examples for imitation. Open the statute book, and it was scarcely possible to find a single declaratory law, but some dire misfortune followed close behind. Let their lordships call to mind the declaratory law respecting America, and they would instantly recollect the unfortunate consequences that followed. Let them reflect on the Declaratory Bill in the case of Ireland. Ireland had, for a series of years, been willing to be governed in all appeals by the decision of one branch of the legislature of this country. They had felt and acknowledged the security of reposing confidence in a jurisdiction, that was more likely to be impartial, and to have less bias than their own House of Lords; and, as a proof that they did so,

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the records of their House of Commons contained various representations against their House of Lords, and complaints of their having acted partially and unjustly. The solitary precedent of a Declaratory Bill, stated by the noble and learned earl (Camden) in its consequence, afforded a gloomy proof of the bad effects of such Bills. Perhaps, his private opinion was, that the Declaratory Act of George 2 truly pronounced the construction of the Act of the 4th of queen Anne; but what was the effect of that construction being declared? Universal alarm and universal complaint! The public saw with horror the right of an heir, unborn when the Act of queen Anne passed, and necessarily innocent of his father's crimes, taken away by an *ex post facto* law. There was something so glaringly unjust, and at the same time so cruel in such an exercise of power, that mankind were shocked at the instance, and with one consent broke out in condemnation and censure. His lordship pointed out the distinction between declaratory bills passed with a view to ascertain advantages to the subject, and with a view to authorize the extent of their restriction. The latter were always odious, and considered as the instruments of tyranny; while the former were looked to with gratitude and admiration. Of that description was the Bill of Rights, a Bill recognizing the legal claims of the subject, in opposition to the encroachments of prerogative and the stretches of arbitrary power.

Lord Loughborough next proceeded to answer the arguments of lord Camden, upon the several clauses of the Bill, and said, that although the doctrine that the control of civil and military government would be nothing without the control and direction of the revenue, appeared to be plain and plausible doctrine, it could only be well understood in France and other despotic countries. In Great Britain, the constitution has ordered it otherwise, and the executive power was not suffered to hold the public purse, the benefits of which system of separation were so obvious and so undeniably excellent, that it would be a waste of words to enter into any argument to further its elucidation. The learned lord had done him the honour to observe, that he had, on the preceding Monday, pointed out a clause in the Act of 1784, the 29th, which, if allowed to be of any force, did annul all the active powers of the Board of Control. The learned earl's reasoning upon this clause had been somewhat extraordinary. The clause gave the Court of Proprietors a power of revoking and rescinding any act, order, resolution, matter, or proceeding of the Court of Directors not approved by the Board of Control, and as this power was not consonant to the construction now wished to be put upon the Act of 1784, the noble and learned earl says to the clause, *nil operatur!* Did the noble and learned earl mean to confess that the clause was originally put into the Act, merely to gall the proprietors into an acquiescence with the Bill, under the delusive idea that their powers were not wholly annihilated, and that now, when the period for plain dealing was ripe, it was necessary they should be told, "Don't rely on the 29th clause; it is true, it gives you an effectual check upon the Company's affairs, but as it would annul the active powers of the Board of Control, you are to consider the clause as having found its way into the Act through some strange inadvertency, and though its words bear an obvious and undeniable meaning, *nil operatur!*"

His lordship proceeded to reprobate the claim of the Board of Control to exercise an unlimited power of superintendance, direction, and control over the revenues of the British territorial possessions in India. He asked, where the right of applying the revenues of the Company in India as the Board of Control thought proper, had a precedent? Was there any such power vested in the assignees of a commission of bankruptcy? Had the Board been appointed guardians of the infancy of the Company, trustees in a commission of lunacy against it, or even, if it were possible, guardians of their dotage, he defied any man to prove that they would have had a right to exercise any such extraordinary power. He had taken the liberty of applying to a noble Secretary of State for information respecting the state of the four regiments to authorize the sending out of which to India was the professed object of the Bill, and it was but justice to the noble lord to acknowledge, that he had given him a very candid answer. He had been given to understand explicitly, that three of the regiments only were intended to be now sent out, and that the fourth was meant to be kept in England for an indefinite and unlimited term. Had noble lords heard, and heard without emotion, that it was

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intended to maintain at home, in this country, a regiment not voted by parliament as part of the establishment, and not paid by Parliament, but paid out of the revenues of India? Would ministers dare to maintain in England a regiment neither paid by Parliament, nor mentioned in the Mutiny Bill? Would they dare to billet soldiers on British subjects, who were not amenable to martial law? Would they dare thus to violate the Bill of Rights, and the principles established at the Revolution? If they dared venture this length, he advised them to bring in a bill of indemnity without delay, or if they rather chose to follow their own precedent, to pass another declaratory bill. He could not say what the law then was, but he knew what the law had been in the year 1688. At that time, it was held impossible to make soldiers of a regiment neither recognized by the Mutiny Bill, nor paid by Parliament. If all the valuable principles of the constitution were not meant to be destroyed at once; if the principles of the Revolution were not grown obsolete, or were not yet so covered with the rust of antiquity, as to be no longer discernible, he trusted ministers would take some means of marking their intention of keeping the fourth regiment at home, and justifying it on the ground of necessity. Perhaps, he should hear that the Declaration of Rights had been extorted by a banditti, a gang little better than highwaymen, from whom the great and good had separated, as soon as the hurry of the moment, which by accident huddled them together, had enabled them to choose better company. He was sorry to find that the wretched pamphleteers of the times were encouraged to treat those, to whom the enjoyment of our liberties and the restoration of our constitution were ascribable, with so little reverence and respect. Singular, indeed, was the freedom, and indecent the contempt, with which it appeared to be the boast of some modern writers to speak of the Revolution, and the great and distinguished characters who effected that glorious work. His lordship said, that he could not sit down, without making some observations upon the comparison which the noble and learned earl had thought proper to make between the two East India Bills, that of 1783 and that of 1784. The noble and learned earl had read the preamble of the Bill of 1783, and had assumed something like an air of triumph, on finding that disorders in the commerce of the Company had been stated among the other abuses, making up the sum of delinquency in the Court of Directors, that called for the interference of Parliament; and yet the noble earl had stated, that general delinquency was the ground of justification of the Bill of 1784. It was rather a whimsical revolution of political sentiment, that the noble earl should have objected to the Bill of 1783, because it stated the delinquency of the Court of Directors, and should have assigned that very delinquency as the ground of his support to the Bill of 1784. The fact was, the one Bill in a direct manner charged the delinquency, and for the limited term of four years suspended the powers of the Court of Directors; the other delusively aimed at inducing them to believe that those powers were left standing, but they at the same time found that they were left blind, deaf, dumb, and with their hands tied. The Bill of 1783 had been most partially quoted and untruly stated with uncommon industry in all parts of the kingdom. At a county meeting held at York, a part of it only had been read, and a construction palpably false had been put upon it; and, under that deception, the meeting had separated. The consequence was, a misinterpretation of the Bill spread through Yorkshire, and a variety of other counties. He had heard of one conversation which passed between two freeholders in that part of England. One of them, speaking of the noble earl behind him, (lord Fitzwilliam) said, "He and his Board have taken all the patronage of the Company." "Has he," said the other; "why then I am sure he'll bring a good deal of it down to Wentworth." Their lordships, from what they had heard that day, must now confess, that the two Bills stood nearly upon the same ground, at least as to the reason upon which the power was taken out of the hands of the Directors. The noble and learned earl, however, had thought proper to remark, that the powers assumed by the Act of 1783, were to be given into the hands of a party, and that the Board of Commissioners had a smack of coalition in it; clearly alluding to an honourable gentleman, the son of a noble friend of his, who had been minister of the country, a man of as much worth and integrity as any individual that ever graced the senate, or decorated human society. Was there nothing of party, no smack of coalition, in the Board of Com-

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trol? Was there not a noble lord, for instance, who used, when he had himself the honour to be a member of the House of Commons, to inveigh vehemently against that unfortunate, and as the noble lord (Mulgrave) then termed it, "accursed" American war? that ruinous and "starvation" war, which a learned friend of his (Mr. Dundas) was at that time somewhat more than suspected of abetting? Was not the noble lord accustomed to reprobate Treasury interference, and the undue influence of Treasury letters? Were there no such things in existence, as the exertion of that influence, and the circulation of those letters? He remembered when a learned friend of his and the noble lord used to wage eternal war on those topics, and yet they were now perfectly cordial; other members of that Board had formerly stood forward equally opposite as partizans; there was, nevertheless, nothing like a smack of coalition in all this! It was doubtless an agreement of parts, a harmony, a fitness arising from the absence of every thing rough and excrescent, all asperities were smoothed down, and the conjunction was perfect and complete!—His lordship took occasion to mention lord North in this part of his speech, and said the noble lord laboured under a severe misfortune, inflicted by the hand of Providence, but he bore it patiently and cheerfully, deriving abundant comfort from the resources of his own mind, and the attachment, friendship, and daily resort of those, who professed themselves his adherents in the hour of his power and prosperity, and having so professed themselves on principles of sincerity and honour, still remained the noble lord's zealous friends. The noble lord, perhaps, felt his consolation not a little heightened by the absence of those, who had basked in the sunshine of his better fortune, but who felt the first northerly blast too strong for their constitutions to endure, vigorous and robust as some of them were.—The noble and learned earl had taken pains to paint the patronage given the Board of Commissioners by the Bill of 1783, in broad and glaring colours. Had the Board of Control no patronage? Had they no share of the appointments of the late Governor-general of Bengal, the Governor of Madras, and the Commander in chief? The Board of Commissioners, the noble and learned earl had said, would have overwhelmed both Houses of Parliament with Indian influence. Were there not to be found any traces of that influence in the present House of Commons? Had no Nabobs, with hard names, found their way into that House since the year 1784? Had no New Romney, and a variety of other boroughs that memory might suggest, felt the happy effects of Indian influence? Had not a Nabob descended on New Romney, like another Jupiter, in a shower of gold? Such things were rumoured. The fact was, the Bill of his right hon. friend, Mr. Fox, like his now mind, was manly and open. He was above the meanness of concealment, and scorned the scandalous baseness of a lie. His life and manners, whatever they were, were public; they were explicit and avowed. His right hon. friend had asserted, and asserted openly, that the patronage and the power were inseparable; and as the best possible guard against abuse, he had placed the patronage in the hands of honourable men with complete responsibility. What did the other Bill do? His expression failed him. He could not find an adequate term to describe its operation on this side Bow-street! It stole the patronage, and put it in the pockets of the Board of Control; it took that by stealth, which it dared not avow and claim as a right. The noble and learned earl had said, if those who brought in the Bill of 1783 thought so highly of it as they pretended to do, he advised them to go to the general election with that Bill in their hands. Be it so; his honourable friends would take the hint; and as they now understood from the noble and learned earl, that a general election was near, they would be proud to rest their claims to public favour on the test of comparison between the two Bills. Delusion was now over, and misrepresentation and falsehood stood confuted and detected. His right hon. friend had reason to be proud on that day, nor was that his only triumph. Out of place, he possessed patronage, and patronage of the noblest kind—the protection of defenceless millions. A species of patronage more congenial to his mind than any other description of patronage whatever. The unremitting exercise of that patronage was the best answer to the calumny and slander which, in the hour of popular phrenzy, industrious clamour had cast upon his name. The great political principle of his right hon. friend was that of an honest and amiable ambition, the reverse of low cunning and sordid avarice. His lordship concluded his speech with a

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declaration that his hon. friends would go to the next general election, confident of success, with the India Bills in their hands; that of 1783 in one hand, as commented upon by its enemies, and the Bill of 1784 in the other, as now explained by its friends!

The *Lord Chancellor* contended, that the object of the present Bill did not relate to the question of right between the crown and the subject, but had been brought forward on general principles of policy; on grounds that did not concern the private rights of the Company, but solely respected the management of their territorial, civil, and military concerns. The real state of the question was not whether the Act of 1784 was a wise and proper measure, but whether the present Bill is a just exposition of that Act. He insisted that it was a fair declaration of the powers vested in the commissioners for the affairs of India, and that so far from giving them additional powers, it restrained them from the exercise of some which they possessed under the former Act. They had voluntarily dispensed with the patronage which they might have exercised, for, they had voluntarily called for checks to limit their powers; this, surely, was no proof that they were desirous of extending their influence. The learned lord had desired to know whether the commissioners of bankrupts had a power of appropriating the effects of bankrupts, without the consent of the party. They certainly had a power to direct the application of the funds of every bankrupt for the benefit of the creditors, just in the same manner as the commissioners for the affairs of India could apply the territorial revenues of that country to the payment of the troops which were necessary for its defence. This was a position which he conceived made more for his argument than against it; but admitting the full force of what the learned lord had argued that if the defence of their possessions should leave them nothing for the purposes of investment, they must of necessity become bankrupts, would their situation be much mended, if they were suffered to apply their whole territorial revenues to commercial purposes, and leave their possessions to the mercy of an enemy? Was this the way to save them from ruin and bankruptcy? He lamented that he had not an opportunity of consulting the calculations, which a noble marquis (Lansdowne) had, with so much ingenuity, reasoned upon during a preceding debate. He lamented that the anecdotes which he then heard, had made so little impression on his mind, that he did not now recollect for what purpose they had been introduced. With regard to the power of originating dispatches, on which so much had been said, he thought the difference of opinion on that part of the question related more to words than to substance; for, it would not, surely, be contended, that the Board of Control, in allowing or amending the dispatches of the Court of Directors were so tied down by act of parliament, that they could not suggest a single idea which had not been laid before them; and yet this was all the originating power they claimed except in cases where the Directors neglected to send any dispatches at all. As to the appropriation of the revenue, if it was admitted that the Board of Control were invested with the management and direction of the civil and military government of India, it was absurd to contend that they were not to have the power of directing the application of the revenue to the necessary purposes of the arrangement of those concerns. These were, in fact, the only two points on which there was any material difference of opinion; and he appealed to the words of the Act of 1784, which his noble friend (lord Camden) had so fairly stated, that the Bill was a fair interpretation of that Act; that it was not a question which ought to be left to the determination of the courts in Westminster-hall; but that as a measure of general policy, it belonged only to Parliament to determine it. The construction contended for, was no stretch whatever of the original Act. The face of the noble marquis, indeed, spoke denial; yet, he could venture to assert, that he was well grounded in his position.

The Marquis of *Lansdowne* expressed his surprise at the doctrine which the Lord Chancellor had thought proper to maintain, when he contended that the present was a question which ought not to be left to the courts in Westminster-hall. He should be glad to know on what foundation this species of general policy rested? Was not the general policy of this country founded upon its law, upon its constitution, upon its freedom? and were not the law and the constitution synonimous terms? Would the learned lord presume to say that the great questions resulting from the government, the finance, and the trade of the empire, did

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not rest solely for support upon the principles of the constitution, under the direction of the courts of law? Was that fundamental principle, the trial by jury, to be attacked by an authority whose peculiar duty it was to protect it? Were the eloquent and powerful arguments of the noble lord near him (turning to lord Loughborough) to be passed over in this light and trivial manner? If such was the new-fangled interpretation of general policy from such a quarter, it was an ill omen indeed! As to the sarcasms which the learned lord had been pleased to direct against him, he should neither be deterred by the looks, howsoever commanding, nor the talents of the learned lord, from asserting his opinions in that House on any public question. The learned lord was welcome to profit from his calculations, if he wished to reap the benefit of them. Knowing them to be founded in truth, he was not ashamed to look him in the face, and to tell him that the present Bill was a base violation of the rights and privileges of the East India Company. He insisted, that by the Act of 1784, the power of appropriating the revenue did not follow the right of control which the commissioners claimed over the civil and military concerns of the Company, and that it was not the necessary consequence of a power of control. It was true, indeed, that the executive government of France had the sole appropriation of its revenues, and to this the present low state of its finances was owing. Let those who doubted this, look at that great financier, Neckar; let them consult a very considerable man who was once at the head of the finances of that country, and who was now present (M. Calonne); they will demonstrate the impolicy of that maxim, and show it is contrary to the principles of good government, by the bad effects it has produced in the decline of the finances of France. Louis the 14th, unhappily for his subjects, preferred the tinselled vanity of being a conqueror, to the solid happiness of his people, arising from a well-regulated commerce and government. He trusted, that whatever resolution might be adopted with regard to the renewal of the Company's charter, government would consider the rights of the stockholder and of the creditor.—The noble marquis acknowledged, that a great and comprehensive system for that government was become absolutely necessary. He, for one, was ready to go immediately into the subject with expedition and effect. He thought it should not be delayed a moment; he was ready to join any party, either in or out of power, to effectuate so desirable a purpose. It appeared to him of such magnitude, and, indeed, it had appeared so to the nation at large; for, it seemed to him, that every measure of government had, for many years past, and during the progress of several successive administrations, either primarily or ultimately turned upon Indian politics. He next adverted to the precipitancy with which the Bill had been hurried through the House. It was, undoubtedly, highly important in many points of view, yet three days had been deemed sufficient for the discussion of a question of such magnitude. He said he had that morning looked into the history of the Bill of 1784, and found that its progress had also been marked with similar haste, when only a few peers attended the House; yet to that "well-digested law" we were now called to look up for the government of our dominions, and the management of the affairs of the East India Company. Could he have conceived that such precipitancy would have been suffered to prevail, he certainly should have attended the first day, when the Bill was brought up. Unwilling as he was to trouble the House, although he had much reason to thank the noble members for their kind indulgence to his feeble arguments, yet he should have called for papers—he should have demanded the Court of Directors to appear at the bar of that House, and upon their oaths have declared what construction they had put upon the Act of 1784, and have answered whether they had considered themselves as having surrendered all the power and patronage of the Company, the origination of dispatches, and the application of the revenues, into the hands of the Board of Control. And even if this question had been affirmed, he was bound in duty to oppose the present Bill, as a most dangerous extension of power, which he was well assured would alarm the neighbouring powers.—He believed that the affairs of the Company abroad could not be in better hands than they were at present. He reflected with pleasure on his being the first man who had suggested that lord Cornwallis was a proper person to assume the reins of government in Bengal, and sir Archibald Campbell had been appointed by him governor of Jamaica on the recommendation of merit solely; for it was well known that some of that gentleman's relations were hostile to

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his politics; but he desired that the Board of Control might be limited to the powers of control, and not invested with the powers of appropriation. Power was a dangerous engine in whatever hands it was placed.—The noble marquis declared it was a pleasing reflection to him, that at the conclusion of the late peace, he and his colleagues in office had laid down their plan for the conduct of India affairs. It was, to suffer the patronage to remain in the hands of the Company, but to control them so far as to divert their attention from the idle schemes of power and extension of territory, to the more solid and beneficial views of trade, from which he was convinced that every permanent degree of strength and power must ultimately be derived to a commercial country. He was convinced that the Company, under proper regulations, might extend the trade to a very great degree indeed. It would not be too bold, perhaps, to assert, that in a few years it might be increased ten-fold. He then pointed out the different parts of that quarter of the globe where fresh sources of trade might be discovered, and applied to the infinite benefit of the kingdom. He appealed to the House upon the dangerous tendency of the Bill; but added, let the fate of the question be what it may—perhaps it was already determined—he must rest satisfied in having done his duty to his country and posterity, in having given his determined opposition to the Bill.

The House divided on the question, That the Bill do pass: Contents, 71; Not-contents, 28.

Protest against the East India Declaratory Bill.] The following protest was entered against the passing of the Bill:—

"Dissentient,

"Because we object altogether to the very style and form of the present Bill, inasmuch as it purports to be a Declaratory Bill of a kind as dangerous in its application as it is certainly unusual, if not new in its principle. If the Act of the 24th of his Majesty be clearly expressed, any declaration of its sense is evidently unnecessary; if it be worded, whether from accident or design, in dark equivocal terms, we conceive that, in order to do away every ambiguity, the mode most open and candid in itself, as well as most regular and conformable to the usage of parliament, would have been by a bill to explain and amend, and not to declare. And we cannot but behold this extraordinary Bill with yet greater alarm, when it has been avowed that it is intended to operate as an act of indemnity for past measures not explicitly stated. Surely it is a proposition absurd and monstrous on the very face of it, to call upon this House to declare what was and is law, subject to provisions which, shall be. A declaration so qualified is a new species of bill of indemnity, which unlike all others, does content itself with holding forth terms of protection against the penal consequences of an illegal act committed, but retrospectively alters and reverses the nature and essence of the action itself from its very origin, if certain prospective conditions be subsequently observed.

"2dly. Because the preamble of the present Bill, which must be presumed to set forth the legal grounds of the proposed declaration, does not appear to us in reality to contain any such grounds. It offers nothing more than partial and pieced extracts from various sections of the 24th of his present Majesty, two of which evidently convey only general powers to be exercised "in such manner as in the said Act is directed," that is, subject to limitations and modifications not recited in the preamble; and the third of these extracts, which is taken from the conclusion of the 11th section of the Act above mentioned, is in truth part of the clause imperative on the Directors, not enabling to the Commissioners; binding the former to obey the orders of the latter (that is all such orders as they may lawfully issue under other parts of the Act), but not conferring on the latter any portion of distinct power. Their powers, whatever they may be, must be sought in the enabling clauses of the Act, by which alone this imperative clause can be construed, but of which not a trace is to be discovered in the preamble.

"3dly. Because the limitations and restraints on the power of the Commissioners, which are now imposed for the first time in this Bill, carry with them an imitation highly derogatory to the honour and wisdom of this House, inasmuch as they imply, that in the very moment when this House felt the most tender apprehensions for the safety of chartered rights, and when they were most anxiously alarmed for the consequences of transferring the power and patronage of the Company even for a time, they consciously and deliberately passed an act, by which those rights were to be superseded, and that

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power and patronage in effect vested in the Board of Control for ever, without sufficient checks and guards to protect the one, or to prevent the corrupt use of the other. The authors of these limiting and restraining clauses have left to the majority of this House no other refuge from the imputation of this inconsistency, but in an ignorance of that meaning, which we are now called upon to declare.

"4thly. Because, if any such limitations and restraints be indeed necessary, the provisions of this Bill, we are persuaded, must prove nugatory and inefficient.

"5thly. Because coupling the Act of the 24th of his Majesty with all its accumulated explanations and amendments, and understanding the powers there conferred on the Commissioners to the extent implied in the preamble and limiting clauses of the present Bill, the system established by that Act, in truth realises all the dangers which were ever attributed to another measure then recently rejected by this House, and is certainly fruitful of formidable mischiefs proper to itself, friendly to corrupt intrigue and cabal, hostile to all good government, and especially abhorrent from the principles of our popular constitution.

"The patronage of the Company (and this seems to be the most serious terror to the people of England) the Commissioners enjoy in the worst mode, without that responsibility which is the natural security against malversation and abuse. They cannot immediately appoint, but they have that weight of recommendation and influence which must ever inseparably attend on substantial power, and which in the present case has not any where been attempted to be denied.

"Should this fail them in the first instance, they can intimidate and encourage: they can suppress the approbation and censure of the Directors on their own servants; they can substitute blame for praise, and praise for blame, or they may instantly recall whomsoever the Directors may appoint against their will: and this they may repeat, till they ultimately compel the Directors harassed and over-awed, to nominate the man whom the Commissioners may wish to favour. Nor is this disposal of patronage without responsibility, the only evil that characterizes the system; all the high powers and prerogatives with which the Commissioners are vested, they may exercise invisibly, and thus for a period at least, invade, perhaps in a great measure finally baffle, all political responsibility; for they have a power of administering to their clerks and other officers an oath of secrecy framed for the occasion by themselves; and they possess in the India House the suspicious instrument of a Secret Committee, consisting only of the chairman, the deputy chairman, and one other director, all bound to them by an oath. Through these they have sent an arrangement for paying the debts of the Nabob of Arcot, beneficial to individuals, injurious to the Company, and fundamentally contradicting the plain principle of an express clause in that very Act by which their own Board was instituted; and through these they have concurred to transmit a dispatch, altered too by themselves, on a subject of mere trade, over which they profess to disclaim all right of management. After such examples we must confess, that our imaginations cannot figure to us any description of business, which may not be sheltered behind the thick veil of the Secret Committee; and from our past experience, relative to the first of these transactions, we are so justly sensible of the great advantages with which the servants of the crown must argue on such topics before an assembly constitutionally disposed to a general confidence in them, that we should be sanguine indeed, did we but expect any considerable check to be given to the possible misconduct of the Board of Control, by the fears of a parliamentary inquiry.

"6thly. Because the operation of this Bill, and of the Act, the meaning of which it is to declare, ought to have been limited to the duration of the existing charter. Whatever may be the right of the legislature to subject the trade and the general revenues of the Company to the inspection and control of the Board of Commissioners, nominated by the Crown, so long as the Company continue in the enjoyment of an exclusive trade, and in the management of great territorial revenues, we must, however, maintain, that to perpetuate such inspection, and to render the signatures of that Board necessary to all the Company's dispatches of every kind, when they may carry on their trade merely as a commercial corporation, without any monopoly, and when they may remain in the management only of their own proper estates, is a measure of injustice wholly unprecedented, and an example liable to much reasonable jealousy in a commercial country like Great Britain.

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"On all these grounds of objection; to the style and form of the Bill, as a declaratory bill; to the incongruities, absurdities, and deficiencies of the Bill itself; to much of the principle, and to all the distinguishing characters of the system which it is meant to declare, as well as to the perpetual operation which it gives to that system, we think it incumbent upon us, here solemnly on the Journal of Parliament, to record our hearty dissent for the satisfaction of our consciences, and for our justification to our fellow citizens, and to posterity.——*(Signed)* Portland, Carlisle, Devonshire, Porchester, Derby, Sandwich, Cholmondley, Powis, Cardiff, Craven, Bedford, Loughborough, Fitzwilliam, Scarborough, Buckinghamshire."

"Dissentient, for the first reason only, Hay."

Proceedings upon the Impeachment of Sir Elijah Impey.] April 16. The House having resolved itself into a Committee to consider further of the Articles against sir Elijah Impey, sir Gilbert Elliot put a question to Mr. Francis, to know whether he chose to be examined?

Mr. *Francis* answered, that still, as upon a former occasion, he was prepared and willing to lay before the Committee, in writing, the substance of his defence, in answer to the accusation which sir Elijah Impey, in his statement at the bar of the House, as explanatory and exculpatory of his arraigned conduct relative to the trial and execution of Nundcomar, had thought proper to advance against him. He observed, that he was thoroughly aware of the disadvantage of giving in a written defence in answer to an oral accusation, and added, that by such an act he knew he was bound down to what he had committed to writing as an answer to a fugitive accusation, and one, therefore, for which the party was not capable of being made responsible. He had lately heard, in another place, a very high and noble person call Mr. Hastings a weak man, because, previous to the precise moment when it was absolutely necessary, he had delivered in his defence in writing at the bar of the House of Commons; and the same noble person had, at the same time, pronounced sir Elijah Impey a wise man, for having avoided a similar error, and only delivered his defence orally. He could not presume to question the soundness of this distinction, laid down by such high authority, but he must nevertheless venture, on the present occasion, to prefer the conduct of the weak, to the conduct of the wise man, and to give Mr. Hastings credit for having chosen to deliver in his defence on the first moment of the accusation, and before it became absolutely necessary for him to make any. There was a gallantry, a spirit, a manliness, and an obvious consciousness of innocence in appearing eager to repel accusation, which he could not but admire; and it must be admitted that Mr. Hastings had something manly in his character, he so far declared himself willing to applaud it, and to copy the example, notwithstanding it might be weak in him to do so, and that he might prove himself wiser if he acted with more apparent prudence.

Sir *Richard Sutton* objected to receiving the written paper which the hon. gentleman had declared himself willing to deliver. That House had nothing to do with what the hon. gentleman called his defence, nor could they recognize what he had termed his accusation. The hon. gentleman had it in his option either to consent to be examined or not. If he did consent, the hon. gentleman must be examined *vivâ voce* as other witnesses were. The House had last session had an instance of the imprudence of departing from their usual forms. Late at night, and in a remarkably thin House, the Committee upon the charges against Mr. Hastings had been prevailed on to admit a paper, by way of saving time, instead of staying to pursue a *vivâ voce* examination. What had been the consequence? The paper afterwards turned out to be a scurrilous libel on Mr. Hastings. Whereas there was this benefit attending a *vivâ voce* examination; if an improper question was offered to be put to a witness, or an impertinent and scurrilous answer was attempted to be given, every member had a right to rise, and prevent either the one or the other being taken down as matter of evidence. He was far from meaning to apply the terms scurrilous and impertinent to the hon. member, but he must object to his proposition of delivering in the written matter, not only because the Committee had nothing to do with the hon. gentleman's defence, but for the sake of the precedent, and in order to guard against the introduction of a new and disadvantageous mode of receiving evidence.

Mr. *Burke* said, that the hon. baronet's

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argument would have been just, if his hon. friend had meant, by delivering in his written paper, to have precluded the Committee from the opportunity of entering into a *vivâ voce* examination; but so far was this from being the case, that the admission of the paper would furnish the Committee with a better ground for cross-examination upon its contents than they could otherwise have enjoyed. And surely it was natural to imagine that gentlemen would have caught at his proposal, as considering it to furnish them with an advantage, by enabling them to hold him fast to what he had advanced as a member in his place. Having failed in his first object, he wished to secure his secondary object, and to have it recognised that he had offered to deliver in his defence in writing.

Mr. *Francis* denied his being in any sense a voluntary witness, and declared, that so far from it, he had on a former occasion professed his fixed purpose not to interfere at all in the prosecution, but that he had been forced to rise and defend himself.

Sir Gilbert Elliot framed a question and answer, to show that Mr. Francis had offered to deliver in a written copy of his defence against the accusation made at the bar by sir Elijah Impey, and that the Committee had refused to receive it. Mr. Francis immediately declared his willingness to be farther examined, and sir Gilbert proceeded to question him as to his opinion of the truth or falsehood of the petition sent by Nundcomar. After the close of Mr. Francis's examination, Mr. Cadell was called in and examined, in order to prove the authenticity of the printed account of the trial of Nundcomar.

Debate in the Commons on the Poor Bill.] April 17. Mr. Gilbert moved the Order of the Day for the second reading of his Bill for the better relief and employment of the Poor.

Mr. *Young* said, that, although he entertained a most unfeigned respect for the hon. gentleman who had moved the second reading of his poor Bill, he could not shrink from his duty, painful as it was, to rise in that early stage of it, and endeavour to prevent its proceeding any farther. The Bill was unfit to be adopted; and, instead of remedying the evils attending the present management and maintenance of the Poor, it would increase their number. The Bill would reduce the magistrates in being throughout England to an insignificant and unworthy situation, by creating a board of commissioners paramount in power, and granting them, as it were, a *dedimus potestatem;* the consequence of which would be, that they would have a right to commit and to punish, and the respectable country magistrates would experience a disability to interfere with the management of the poor of their own neighbourhood, and remain only possessed of powers, which would render them contemptible. Mr. Young mentioned the large expense to which the Bill would put the several counties, by obliging them to build three large additional poor houses; the number of new officers that must necessarily be appointed in consequence; and the difficulty of conducting a system so extensive, complicated and perplexed. He paid Mr. Gilbert many compliments for the good intention of his endeavours, and observed that, had not the Bill come from so respectable a quarter, he should have commented upon it more harshly; but, as his wish was to treat every measure proceeding from so worthy a member with all possible degrees of tenderness and respect, instead of moving the rejection of the Bill, he would merely move, "That it be read a second time that day three months."

Mr. *Gilbert* observed, that the present subject had engrossed much of his investigation for upwards of twenty years past, as he thought the poor were greatly distressed, and that the immense sums of money raised for their support had been grossly misapplied; that he had used many endeavours, and brought in several bills, to redress those grievances, but hitherto without success; that the Bill now under consideration was formed upon a plan which he considered as adequate to the purpose; that he was conscious there were imperfections in it, but none which he thought might not be easily corrected and amended in the Committee; and, he hoped, when the distresses of the poor, and the grievous taxes laid upon those who maintain them, were duly considered, the House would permit the Bill to go into a Committee; that it was not new in principle, nor difficult in practice; that the foundation of it was to incorporate a number of parishes, for the better government, relief, and employment of the poor, upon a plan similar to that which had

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been adopted with success in the counties of Norfolk, Suffolk, and other places; that he had collected from several of those houses of industry the state of their proceedings, which he desired leave to represent to the House. He said, that the hundreds of Clavering and Loddon, in Norfolk, consisting of forty-one parishes were incorporated 4 Geo. 1, that their poor-rates in 1776, amounted to 2,358*l.* But, in 1785, were reduced to 2,257*l.*, after paying the interest and principal of 7,000*l.* borrowed for the buildings; that the poor-rates in fourteen adjoining parishes, which were not incorporated, during the same period had increased 349*l.* per annum; that in the hundreds of East and West Flegg, consisting of twenty parishes, which were incorporated 15 Geo. 3, the poor-rates had decreased 78*l.* per annum during the same period, and in seven adjacent parishes not incorporated, the poor-rates had increased 254*l.* per annum, during the same period; that in the hundreds of Long Ditch and Mitford, consisting of fifty parishes, incorporated the 15 Geo. 3, the poor-rates were decreased during the same period 908*l.* per annum, and in twenty adjoining parishes, not incorporated, they were, in the same time, increased, 251*l.* per annum; that in the hundred of Blything in Suffolk, thirty-eight parishes had been incorporated in 1764, and after paying the interest of the money borrowed, and defraying all other expenses, the poor rates were reduced 129*l.* per annum; and that the poor rates in twenty-three adjacent parishes, not incorporated, were, during the same period, increased 859*l.* per annum; that in the town of Shrewsbury, where six parishes were incorporated, in 1784, the poor-rates amounted to 4,605*l.* per annum, and, at the end of three years afterwards, were reduced to 2,992*l.*, after paying the interest of 6,000*l.* borrowed for the buildings, 750*l.* in part of the principal, and also the expenses of furniture, stores, &c. Mr. Gilbert farther said, that the utility of these incorporated districts was so evident from the instances he had stated, where the decrease of the rates appeared as rapid as the increase of them had been before, that he thought the House, whose duty it was to hear and redress grievances, could not refuse the second reading of this Bill, as the only means by which it could go into a Committee, where it might be fully considered and amended, where necessary. That his desire was to have it made as perfect as it could be in the Committee, then reported, reprinted, and sent into the country for farther consideration, before it came to its last stage in the House.

Mr. *Drake* said, that to the unremitting assiduity, the unceasing labours, and the indefatigable industry of the hon. gentleman in preparing his Bill, he was ready to give the most cordial approbation; but he could not sacrifice a public trust, or consent to the speculations of any individual, however well intentioned, unless his mind fully approved of them. The Bill went to create a Board of Commissioners to be invested with inordinate and most abusable powers. That several parishes had been allowed to incorporate with respect to their poor, and that they had reaped the benefit of incorporation, he verily believed; but the present Bill proposed an extensive system of incorporation liable to consequences that unavoidably created general alarm and apprehension. He wondered not at the partiality of the hon. gentleman to his Bill. Natural affection would necessarily bias the mind, and no parent was willing to confess the ugliness of his own child; natural affection, which was a comprehensive expression for the description of an all-powerful and irresistible prejudice, blinded him to his child's defects and deformities. If the hon. gentleman conceived the sense of the country was with him in his project, he was egregiously mistaken. He had not met with a single magistrate who did not reprobate the system, as leading to great confusion and enormous expense. It was highly necessary that the House should come to some decisive measure respecting the Bill; the public saw several different projects relative to the future management and provision for the maintenance of the poor afloat, and they were puzzled how to act upon the subject, before the Legislature had determined which to choose, and which to reject. Gentlemen who were willing to take a part in parochial concerns, and to assist in forming plans for the provision of their parish poor, were reduced to the necessity of standing still, lest the mode they might adopt should suddenly be put a stop to by the decision of Parliament. It was incumbent, therefore, upon that House to act effectually respecting the Bill, and although no man would be more ready than he to let the hon. gentleman, the author of the Bill, down as gently as possible, he should have

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been better pleased if it had been a motion for a direct and explicit rejection of the Bill.

Mr. *Beaufoy* felt it incumbent upon him to rise for the sake of doing justice to the great and universally acknowledged merit of the hon. gentleman who had taken such laudable pains to render himself master of the subject, and had furnished the House with so much valuable information respecting it. From that information the House had been taught that upon an average of the last nine years the amount of the poor-rates had increased in a very considerable degree; and perhaps it had escaped them, that, on a calculation upon the probable future increase, governed by that of the last nine years, in the course of fifty-three years, the term of an ordinary life, the poor-rates of the kingdom would amount to the enormous sum of 9,234,000*l.* He enlarged on this alarming speculation, observing that the wisdom of Parliament would doubtless be exerted to prevent the growth of the evil, and establish the maintenance of the poor on such a system as should render it impossible that during the probable lifetime of some gentlemen present, the total amount of the poor-rates should swell to the enormous sum that he had stated. He spoke of the benefit of allowing parishes to incorporate, but objected to the scheme which the Bill would establish, as too complex, too expensive, and too liable to abuse.

The House divided on the question, that the word "now" stand part of the question: Yeas, 10; Noes, 44. The second reading of the Bill was therefore put off for three months.

Debate in the Commons on the Conduct of the Admiralty in the late Promotion of Admirals.] April 18. Mr. *Bastard* begged leave to remind the House, that when, upon a former occasion, (see p. 20), he made a motion, by which he conceived that justice would be done to the meritorious officers who were driven from the service in consequence of their having been passed by in the late promotion to the flag; he had not chosen the mode which he then adopted from any preference given to it in his own mind, as the best mode of obtaining redress for the injuries the officers had received, but he had brought it forward in that shape, because he thought it the most lenient and favourable for ministry. That motion had been rejected, and if he should now bring the business forward in a more harsh form, he desired the House to bear witness that he did it reluctantly, and he trusted that they would impute it to necessity rather than to inclination. He had engaged in endeavouring to obtain justice for the brave and deserving officers who had been passed by in the late promotion; and no consideration on earth should prevent his persisting in his purpose until the end was attained, unless that House should interfere and order him to desist. When he proposed an address to the Crown, he was told by the Chancellor of the Exchequer that the House could not in that manner interfere, and that it was an encroachment upon the prerogative of the Crown. He wished to know whether the House had not an undoubted right to address the Crown, when they were fully convinced of the existence of abuses in the executive departments of Government? Every person in every department had a certain power of abuse and corruption, and was not that House to notice it? If any man would venture to hold such a doctrine, he was ready to prove, by numerous instances, the interference of the House to inquire into ministerial abuses. The brave and meritorious officers had been stigmatised and disgraced, and when they applied at the Admiralty to know why they had been so treated, they had been sent broken-hearted away. Far better had it been for them to have fallen in action, than to have lived to be thus degraded! Had that been the case, their grateful country would, in all probability, have voted them sepulchral honours. But now, if they died, and their country acknowledging their great and important services, were to erect monuments to their memory, how would the epitaphs run? "To the memory of captains Balfour and Laforey, who, after having performed most glorious services to their country, were disgraced by a denial of being admitted to those honours and rewards to which they had an undoubted claim, and died in consequence of broken hearts." He begged the House to consider the question seriously, and that the motion might pass, in order to do substantial justice to the officers, that they might have those honours which were their due, and those emoluments which were their right. Thus would confidence be restored to the navy, and that spirit revived which had been fatally checked by the general opinion entertained among the officers, that

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meritorious services were no longer considered as strong claims to honours and rewards. When the subject was before under discussion, no gentleman had ventured to assert, that the first lord of the Admiralty had done right. A principle had been laid down to regulate the promotions to the flag by the order of council of 1747. He made no doubt but he should be able to prove to the satisfaction of the House, that the principle had been abandoned, and broken arbitrarily, capriciously, and wantonly. He would prove the fact from authentic letters, some of them written by the first lord, others by Mr. Stephens, and one of them by the first minister of the country. He declared he should be sorry to read any thing of private correspondence. He begged to know if it contained any passage which was considered as of a private nature. He reminded the House how long officers in the navy were to continue in the service before they could obtain promotion and honours; and how very different the case was with respect to the army. There were sinecure places in the army of 2000*l.* per annum, to the amount of 50,000*l.*; whereas the whole of the sums given to the navy amounted to no more than 16,000*l.* per annum. He was far from objecting to liberality being exerted to those officers that had been promoted, but he wished that other persons more capable of service were rewarded adequately to their merits. It had been said, that the Admiralty possessed a discretionary power to select captains in the promotion to the flag; but he should contend, that every discretionary power was liable to abuse, and consequently subject to the control of Parliament. That House was constitutionally authorized to superintend and control the conduct of the different departments of the state, and particularly the naval department. In the present instance, though the order of council of 1747 marked and laid down the principles to guide and govern the board of Admiralty in their promotion of officers, and left them little more than to follow the rule chalked out for them, he would prove, that in the late promotion every one of those principles had been totally deserted. The year 1777 had been made use of at one time, and to answer a particular purpose, as a year of peace; and at another time, and to answer another purpose, as a year of war. The reason assigned for advancing one captain to his flag had been assigned as a fit reason for rejecting another. When that House called for papers, they had a right to have the papers they specifically called for; and a refusal would naturally create suspicions. —Mr. Bastard investigated all the circumstances of the cases of captain Uvedale, captain Shirley, captains Balfour and Laforey, Bray, Dalrymple, and Thompson. He maintained, that they were all men fitted for command. He spoke of captain Uvedale in terms of great praise, and mentioned his ill health, which obliged him twice to quit his ship. In order to prove the captain's gallantry, he stated, that a brother officer, in the fleet of sir George Rodney, observing captain Uvedale extremely ill, told him of it, and advised him to apply to the Admiralty for leave to come home, when the captain had said in reply, that he had rather die there, than leave the French unbeaten in the West Indies: that sir George had declared he would save captain Uvedale's life against his will, and accordingly sent him home with dispatches. That captain Uvedale was next appointed to the Dublin, but was, after some time, obliged to quit it on account of his health. Mr. Bastard added, that for this reason he had been taken no notice of by the Admiralty. That the fact was, a yard fell upon his head on board his own ship and wounded him, which caused him to undergo a temporary deprivation of his ship; the blood gushing from his wound, a survey of surgeons had been ordered to report his ill health; but he was not superseded at his own request. Was an officer, then, who had been wounded in the service, when actually at sea, and on board his ship, to be deprived of his rank on that account?— Mr. Bastard proceeded to state the case of captain Laforey; who had been commissioned by sir G. Rodney to hoist a pendant as commander in chief in port at Antigua. He read the letters of captain Laforey, and the answers of lord Howe upon the subject, and commented upon them, remarking, that although captain Laforey was set aside from his flag, on account of his holding a civil office as commissioner of Plymouth-yard, sir C. Middleton had his rank, notwithstanding he was Comptroller of the Navy. He spoke of the appointment of sir John Lindsay, who, though a most respectable officer, was in a state of infirmity from ill health that rendered it highly improbable

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that he would again be able to go to sea. Mr. Bastard reasoned on the fatal consequences of such a promotion of captains to the flag, and mentioned that at one period of the last war a kind of epidemical disorder reigned in the fleet, which made many of our best officers come on shore, and deprived the country of the benefit of their services. In the present case, he dreaded the effect, unless the cause of complaint were removed. The whole service would feel the degradation of the brave and meritorious officers in question so much that they must reprobate the measure. To make others who had not equally distinguished themselves flag-officers over their heads, was to make no distinction between positive service and negative merit. If promotion depended altogether on the caprice and humour of the first lord, mean wretches would get about him, whispering suspicions, and blasting the characters of men; and thus establish a system of conduct fit only for the inquisition. Mr. Bastard mentioned the case of captain Bray, who had been in the impress service, and who had applied for his flag, when the first lord advised him, at his time of life, to give up his claim, and apply to be put on the superannuation list. Capt. Bray, feeling hurt at this, desired time to consider. At length he told lord Howe that he was willing to follow his lordship's advice. He was instructed by lord Howe in what manner to apply for the superannuation. He adopts it, and writes on lord Howe's request, and is then answered, that his application cannot be complied with. Mr. Bastard observed, that if the Admiralty had a power of selection, they ought to use it as an English power, and not a Turkish power of selection. He next read a letter from Mr. Stephens, ordering capt. Bray and his gang to sea; and now, instead of reward, his pay was reduced from ten shillings a-day to nine shillings and sixpence. The agents of capt. Uvedale had written him word, that his name was left out of the list of flag-officers, and 5 per cent. or a shilling in the pound, deducted out of his pay.—Mr. Bastard next spoke of the commissioners of yards that had at different times been made flag-officers, particularly mentioning sir Cloudesley Shovel, lord Hood, sir Richard Hughes, and admiral Arbuthnot; but observed, that, in those days, there was another Admiralty; an Admiralty whom he honoured for having brought men of merit into the service, but he could not agree that they were ever out of it. He took notice of an expression of lord Howe's, in one of his letters to captain Laforey. His lordship considered his acceptance of the commissionership of Plymouth-yard, as "a dereliction of his nautie pretensions," not considering that office as a military, but as a civil employment. Mr. Bastard observed that such civil employments could only be held, by military characters, and stated the singularity of capt. Laforey's case, it being declared, that previous to February 1778 it was peace, but, for the sake of making capt. Graham it was war. He asked, could the reason for excluding one man be the reason for making another in the same situation? and thus a brave and gallant officer was lost to the service. Mr. Bastard mentioned the case of capt. Shirley, who had the approbation of the Admiralty, and commanded several sail of the line. Finding, however, when the promotion was made, that he was put by, he applied to lord Howe, and desired his claims to be exhibited to the council, when the first lord of the Admiralty refused to lay his case before the council. To capt. Thompson, who had written to know the reason of his being set aside, the first lord would give no answer. Mr. Bastard commented upon an intimation that his Majesty had thought fit to order the promotion exactly as it had been made. He asked, whether ministers could patiently hear such a libel on the sacred name of Majesty? It was impossible, he said, for his Majesty, whose goodness of heart and love of justice they all knew and admired, to have authorized the rejection of the just claims of brave and honourable officers. He now adverted to the letter which he had before declared he knew not whether he was to consider as a public or a private letter, and wished to know whether he might read it or not? [Mr. Pitt said, that he really knew not to what letter the hon. gentleman alluded. If it was any letter of his, he could not tell whether it was a public or a private letter, because he did not recollect what letter it could be, but he should not object to its being read either in the one case or the other. Mr. Bastard had torn the letter, and said, he knew not, if he could make it out. Mr. Pitt desired it might be made out if possible.]—Mr. Bastard observed, that the letter was written by the right hon. gentleman to Mr. Coutts, and the purport of it was to

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state, that in consequence of certain arrangements the promotion to the flag must stand as it did; the claims of the parties alluded to could not therefore be complied with. He commented upon the word "arrangement," as if an inference was to be drawn from it that naval promotions were to be guided and governed by political arrangements. He wished the House to recollect, that the officers serving in the East Indies, for a very considerable time, and who had been sharers in all the victories there for near half a century, had been superseded by officers who had not served one half of the same time. He would not make any comparisons between those captains that had been promoted and those that had been passed over, but he could not help observing that many passed by were equal in capacity to those approved of by the Board. The House were that night to decide whether officers were or were not to be rewarded according to their merits; whether the service was or was not to be degraded; whether any confidence was to be placed in merit; and whether any difference ought to be made in positive service and negative merit? In conclusion, he declared, that he stood upon the authority of the Chancellor of the Exchequer, and would move, "That it be referred to a Committee to inquire into the conduct of the Admiralty in the late Promotion of Admirals."

Mr. *Brett* contradicted the assertion that capt. Uvedale had not been superseded from his command of the Dublin at his own request, and produced a letter sent by the captain to the Admiralty, in which he expressly declared, that since he commanded the Dublin he found himself affected by giddiness and other complaints, and therefore requested their lordships to allow him to resign the command of the ship, adding, that as soon as he was able he would return to his duty. He observed, that there was not one word in the letter about the yard of a ship falling on the captain's head and wounding him, nor had he ever before heard of the circumstance.

Mr. *Bastard* thought the letter of itself a proof of the fact, as the captain could not suppose such a use would be made of the letter as to deprive him of his rank.

Sir *George Howard* as a military man, could not give a silent vote on a question of so much importance. No gentleman could more heartily lament than he did, that such a question should have been brought under discussion in that House, because no one was more sensible of the inconveniencies that would unavoidably arise from that House interfering at all with the departments of the Executive Government. He had always understood that the distribution of rewards and punishments had been wisely lodged in that department, where the duty could be executed with the strictest justice. Though he had the honour to belong to the army, he had ever considered the two military services as blended together. He had often experienced the advantage of considering them under this description. In the course of a long military life, he had always found them in this point of view, and he had never seen any emulation between the officers of each, but that of who should serve their country most effectually. He had been a sharer in much service, the success of which he imputed to the cordial friendship and mutual exertions of the naval and the military parties who were concerned. He could not, therefore, but feel himself very deeply impressed with the facts which he had heard that day stated to the House, and notwithstanding he had ever entertained a high respect for the character and talents of the noble lord at the head of the Admiralty; yet after what he had heard, he thought the House could not, without lowering its honour and its justice, refuse an inquiry. Among other extraordinary circumstances the hon. gentleman had stated that capt. Thompson had written to the Admiralty to know why he had lost his rank, and that no answer was returned. If the fact was correct, it was intolerable. Capt. Thompson had received what, he had ever thought one of the greatest honours a military man could receive, the thanks of his Sovereign, and of both Houses of Parliament, for his great and meritorious services, in common with others, who shared in the glory of the famous 12th of April, 1782. The House ought not to imagine, that men led by their genius, and qualified to follow the military profession in either service, looked to the number of paltry shillings they were to receive per day, as a compensation for their laborious life and perilous services. There was not a man, he would venture to say, that ever got a commission in the navy, who did not assure himself, that by a continued series of honourable and meritorious conduct, he should obtain a flag. It could not,

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therefore, but prove a deep and cutting mortification for any man, conscious that he did not deserve it, to find that he was put aside in the day of promotion. Military men, from the nature and danger of their profession, must be allowed to feel more poignantly and with more nicety and quickness of animation than those accustomed to the frigid rules of civil office. To such feelings he had ever been accustomed, and he trusted they were feelings neither misbecoming a gentleman nor an officer. The power of settling promotions and appointing to command had ever been lodged in the Board of Admiralty; but if either were wantonly and capriciously exercised, that House would act wisely and with becoming dignity to employ its constitutional functions of inquiry and control.

Mr. *Hopkins* objected to the motion as unnecessary and improper, the present Board of Admiralty having in the late promotion to the flag followed former precedents during a course of several years. There scarcely ever had been a promotion to the flag, without some one captain having been put aside; and upon a reference it would be found, that throughout a given period 139 captains had been promoted to the flag, and 244 passed by, but it never had been considered as putting a stigma upon their naval characters.

Mr. *Drake* said, he subscribed to every thing that sir George Howard had said. He thought favourably of the present administration, and generally had hitherto given them his support; but, in the present instance, the facts stated by the hon. mover were so important and so clearly made out, that he should consider himself to be guilty of treachery to his constituents, if he did not give the motion his support.

Mr. *Pitt* acknowledged, that when the subject had been last under discussion, he objected to that House taking upon itself to advise the Crown as to the distribution of military rank, and stated it to be highly dangerous not only to the body of officers, but to the constitution itself. That the present was the proper mode of proceeding, and that the House had a constitutional power of inquiring into the conduct of any department of Government, with a view either to censure or punishment, was unquestionable, and whenever a case was made out, strong enough to warrant suspicion of abuse, that deserved either censure or punishment, he should ever hold that to be the indispensable duty of the House to proceed to inquire. But, the present motion turned upon this single question: had a case sufficiently strong to warrant that degree of suspicion which alone could justify the House in proceeding to inquire, been made out? Had it been said, that the conduct of the Board of Admiralty was so distinguished by partiality, capriciousness, or oppression as to give a ground of censure? No, it was only said, "let us inquire; there may be grounds." If there were, they ought to to be stated, and then that which was always a painful and delicate task might be necessary. First, let the House observe what were the obvious divisions into which the subject seemed to fall. It was said, that in the late promotion to the flag, many officers had been passed over and omitted; it was only contended, however, that a few of those were omitted improperly. The principal question was, whether captain Laforey was properly excluded or not? On the subject of captains Thompson, Uvedale, and the others, the argument was, that it was an act of oppression. Those he took to be the two distinct points of consideration, and to them he should apply the arguments which he meant to use. In the course of what he had to say, he did not mean to enter into a disquisition of the services of the officers in question, or invidiously to form a comparison between them and their brother officers; it was unnecessary —and sufficient to admit, what he believed no man would deny, that they had all distinguished themselves while acting in the capacity of private captains, and proved themselves officers of great bravery. He would take the case of capt. Balfour, who with capt. Laforey, had signalised himself, by one very brave action to argue upon. He did not mean to speak lightly of it; because it was, undoubtedly, a most brilliant and successful proof of courage and conduct for officers in boats to enter the harbour of Louisbourg, and cut out one of the enemy's ships of the line. It was an action that had deservedly raised captains Balfour and Laforey, high in the opinions of their countrymen; but would any man say, that because capt. Balfour had the good fortune to have enjoyed an opportunity of displaying great bravery and skill with success, that, therefore, at any subsequent period of his life, he was the most proper man to be made an Ad-

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miral? did it follow, that on that account merely, he ought to be made an admiral? Was not the vote of thanks which captains Balfour and Laforey received from that House, and the promotion they immediately obtained, a very honourable reward for their services in the action in question? Was a man's being successful as a captain, a proof that he was the best qualified to be an admiral, and did it imply the necessity of his being made one without adverting to any other consideration? Capt. Balfour had the singular good fortune to have an opportunity of distinguishing his bravery and his skill as a captain, and of distinguishing them successfully; but was there any thing in the nature and circumstances of the action, that proved him qualified for the duties of the more complex command of a fleet? If that House undertook to pronounce that every man who did a gallant action, as a private captain ought to be made an admiral, where were they to stop? It would be impossible to know to what inconveniencies they might not be subjected. An hon. gentleman had told them what had been the services of their fleet in former times, which had laid the foundation for that glory which the nation now happily enjoyed. That hon. gentleman had stated, that in a course of years 139 admirals had been made, and 244 captains passed by. He begged leave to ask the hon. baronet, who with so much proper feeling for the honour and dignity of the profession, had warmly supported the motion, whether he would contend that the passing by of those 244 captains threw the least stain upon their naval characters? And yet if the passing by of captains Balfour, Uvedale, and Thompson, fixed a stigma upon them and degraded them, every captain passed by, of the 244 formerly, and the 36 now, had been equally stigmatized and degraded—an assertion too monstrous and too glaringly absurd for any man in his senses to hazard. Many officers might be deemed improper to be made admirals, for want of capacity, and for a variety of other reasons. And want of capacity did not here mean want of sense. They might have very good sense and understanding, and nevertheless be by no means fit for command. The instances of passing over captains were so frequent, that they occurred in various periods. In 1728, two admirals were made, and one captain passed over. At a subsequent period eight admirals were made, and seventeen captains were passed over. How was the House of Commons, composed as it was, to judge whether captains were qualified for admirals? Would they undertake to say they thought from their knowledge of naval subjects, that the captains Balfour, Thompson, Uvedale, &c. ought to have been made admirals, and that all the other captains that had been passed by, ought to have been objected against? The next thing they would have to do, would be to resolve that they were better judges of the Admiralty concerns than those who had a professional education. Did the taking the ship in Louisbourg harbour, prove that captain Balfour was as fit as any of those who were made? Was his meritorious conduct as a private captain a sufficient cause for giving him an admiral's flag, whether he was fit or not for an admiral's command? The evil stated was, that the first lord of the Admiralty, with partiality and with caprice, had decided what captains should and what should not be admirals. It was true there was a possibility of abuse; but put the other case, and it would clearly appear that the serious inconveniences that would most probably, arise out-weighed every little inconvenience that might attend the passing over of those captains, whose merits he admitted to be great.—Having stated this, he would just say a few words on the case of captain Laforey, which seemed naturally to fall into three distinct questions, under each of which it may be argued; the first was, whether it was not a good and proper rule to lay down, that when an officer, in a period of hostilities, accepts a civil employment, his military pretensions should cease? the second, whether captain Laforey stood in that predicament? and thirdly, whether he had since received any military commission? With regard to the first question, undoubtedly it would not be contended, that the first lord had thereby laid down a rule at all injurious to the service. Secondly, the period when capt. Laforey accepted the commissionership to Plymouth yard, was a time of open war, and as to the last, the paper he had in his hand would prove the fact. It was the commission appointing capt. Laforey commissioner and commander in chief, accompanied with instructions which relate to the duties of his commission within the port of Antigua. Under those instructions and terms and restrictions, captain Laforey did accept the commission.

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Whereas lord Hood was made a situation at home, and when at home there were no actual hostilities. Admiral Arbuthnot's case was similar, and in fact neither that nor lord Hood's case were circumstanced like that of captain Laforey's. As to the present comptroller of the navy, sir Charles Middleton, he could not deny, that his was a civil employment, as well as the commissionership of Plymouth dock; but when it was considered how much depended upon the duties of his office, and that the first abilities were requisite to fill the situation, without inquiry into the motives of the Admiralty, in giving sir Charles his military rank, the instance might be allowed as a fit exception to the general rule. The place of a commissioner was lucrative, and, therefore, while an officer held such a place in point of provision, he was so well situated, that the loss of his rank was not so material as might be imagined. The great aim of government was to render the places of the commissioners sufficiently lucrative to be a comfortable retreat; but not so pregnant of emolument as to tempt the best officers from the service. Mr. Pitt concluded with declaring that such were the outlines of the present subject, and that he trusted the House would feel that there must be a discretionary power vested some where; and where could it be vested so safely as in the Board of Admiralty?

Mr. *Fox* said, he perfectly concurred with the right hon. gentleman in the greatest part of his argument. No one held more sacred the power of the prerogative, with regard to the distribution of military honours and rewards, than he did; nor was any one more aware that the House of Commons was by no means a proper place for canvassing military promotions. So firmly had he ever been of this opinion, that had the hon. gentleman who made the present motion moved an address to the Crown, he could not have voted for it; but the motion being a motion for a committee, he should vote for it; because it was the constitutional province, and the undoubted duty of that House to watch over the executive departments, and, where they had cause to suspect abuse, to institute an inquiry, with a view either to censure or to punishment. At present, a striking case indeed had been made out, and he saw very strong grounds of suspicion that, in the late promotion to the flag, the first lord of the Admiralty had acted, as it was truly said, with partiality and oppression; but to express it in the mildest term that could be applied to it, with caprice.—The right hon. gentleman had distinguished the sort of facts, on the truth of which the jut of the business lay, into two questions: the distinction was just, being whether captains Uvedale, Thompson, and Balfour ought to have been promoted to flags, and whether captain Laforey, holding a civil employ, could have been so promoted? For the sake of illustration, the right hon. gentleman had taken captain Balfour to argue upon, because his merit was grounded on an action of the most brilliant kind, and he had put the question, whether at his time of life, and in his state of health, he was fit to be an admiral? Captain Balfour was stated by the right hon. gentleman to be an officer who had the good fortune to be able to show that bravery which he possessed in common with others. Did the right hon. gentleman mean to stigmatize other officers by so putting the case? To captain Balfour's merit, however, with that felicity of expression which always, in an eminent degree, distinguished the right hon. gentleman, he had done ample justice, and spoke of an action, one of the most to be admired and the fullest of lustre that ever distinguished any officer, in terms of due respect, and with a just energy of description.—The whole of the first part of his argument was constitutional, manly, just, and such as, Mr. Fox said, he could subscribe to fully; but, in the progress of it, aware that pursuing the same fair line of reasoning would never answer the purpose of defending an opposition to a motion so undeniably proper, the right hon. gentleman had made a sudden turn, shifted his ground, and argued in a manner directly the reverse of that which he began. If the bare question was put thus, Do you think captain Balfour fit to be made an admiral, because he performed so glorious an exploit in the harbour of Louisbourg? Mr. Fox said, he should have no hesitation to answer directly in the affirmative, and say yes. But, if the other question was put, and he was asked, whether every captain who had merely negative merit as an officer ought to be made an admiral, he should answer no, with as little hesitation as he had before said yes; because the latter position was as clearly false as the first was true. The reason why he would make captain Balfour an admiral was on account of the very description

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given of him by the right hon. gentleman; it was, because he had the singular good fortune to have given a successful proof of his extraordinary bravery, and his extraordinary skill in Louisbourg harbour; and the reason he would assign to the other captains for not making them admirals was, because they had not had the good fortune to distinguish themselves. If the present motion were not carried, the late promotion to the flag would operate as a damper on the service, and do infinite mischief, by checking the ardour and quenching the spirit of our officers. It would be saying in direct terms to those who endeavoured to distinguish themselves, that they would do it to little or no purpose. It would be like addressing them thus: "Fight your ship bravely; do your utmost to prove your courage; sink, burn, and destroy; show yourself an extraordinary good officer: we will commend you; you shall have the thanks of the King; you shall have the thanks of the House of Commons, and every distinction; but when the hour of promotion arrives you shall lose your rank, you shall have no flag, you shall stand degraded in the eyes of your profession, and you shall find that your fame is a mere bubble. But, if you have parliamentary interest, if you have parliamentary connexions, if you can get a small fleet to command, you may then show yourself a good officer with some prospect of reaping honour and emolument for your pains; if you are a member of the House of Commons, so much the better, your success will then be the more certain." He was aware, Mr. Fox said, that it did not always follow, that he who had shown himself a good soldier would make an excellent officer; and he knew that a good captain might not always make a good admiral and commander. He was convinced that these things were possible; but the contrary presumption was strong; and it was more likely that he who had distinguished himself greatly in one military situation, would also distinguish himself in another. The office of an admiral might be considered in two views; and the right view undoubtedly was to prospective service, and an eye to selection was most proper and justifiable. But it might be considered merely with a view to honours and rewards retrospectively and for past services. In the latter view the late promotion could not be defended a moment; because, so considered, it was most scandalously partial and unjust. He mentioned sir John Lindsay as a proof that a view to prospective services had not solely governed the measure; because, though sir John Lindsay's friends must ardently wish his recovery, they could not hope for it with any great degree of confidence. He paid sir John's character encomiums, and said, if he could be swayed by personal feelings in his arguments, he should not have mentioned sir John Lindsay, since he was a man for whom he entertained a very sincere friendship, and was, beside captain Laforey, the only naval officer with whom he lived in a very considerable degree of intimacy. —The right hon. gentleman, in the course of his speech, had taken no notice whatever of one case, that, in his mind, lay heavy on the first lord of the Admiralty; and this was the case of captain Bray. The hon. gentleman who made the motion had told them that captain Bray applied for his flag; that lord Howe advised him, at his time of life, to give up his claim to rank; that he instructed him in what manner to apply for his superannuation; that captain Bray abandoned his claim to rank in consequence, and applied for his superannuation, when he was told that it could not be granted him. A transaction so cruelly delusive deserved inquiry in that House. He wondered, therefore, after such a charge had been made in the House of Commons, that the friends of the noble viscount should feel it their duty to resist an inquiry, which could alone clear his character. They must have felt it a painful duty indeed, and the noble viscount must feel unhappy when he should know that such a charge had been brought against him, and that the means of probing it were denied. He wondered the right hon. gentleman had not felt this pointed circumstance.—Mr. Fox took notice of that part of the Chancellor of the Exchequer's speech, in which he had endeavoured to defend captain Laforey's being passed by, while sir Charles Middleton, standing precisely in similar circumstances, had received his rank. In going into so many minute details of dates in this part of his speech, and labouring at trifling distinctions, the right hon. gentleman seemed conscious that he had by no means been able to satisfy the House respecting a transaction so glaringly partial and unjust. The right hon. gentleman had admitted that there were three distinctions, upon each of which the case might be argued; first, that sir Charles Middleton did not come within the rule,

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and that captain Laforey did; but, in the first place, he would ask, was the commissioner of Plymouth yard, with a military commission besides, a post to be holden not as a military man? Mr. Fox mentioned the cases of sir Richard Hughes and lord Hood, who had both been commissioners; and though he would not, he said, compare the men, it was impossible not to see that the rule, as it was called, was as applicable to their case as to that of captain Laforey.—He reprobated Mr. Pitt's argument to persuade the House that they were not competent to judge upon the partiality or impartiality of the late promotion: if it meant any thing, he observed, it went directly to the annihilation of the whole of the constitutional powers of cognizance and control of that House. In like manner, they might be told, when a complaint was urged against the conduct of a judge, "Do not not inquire. What do you know of law? Leave it to the chief justice, and the courts below. They alone understand the subject." He could not help remarking, he said, that, on this occasion, those gentlemen who were against appealing to the House of Commons were its members, and those who wished it were the military men themselves. He asked, whether, by so many of them dividing in support of the last motion, they seemed sorry that it came before parliament, and whether they had thereby manifested a wish that it had been referred to the decision of one man only, who would have opposed their own opinion? The right hon. gentleman had said, "would any little inconvenience weigh against the mischiefs that might arise from the discussion of such matters in parliament?" Mr. Fox declared, that he felt his share of concern, that such questions and considerations should ever come under parliamentary agitation; but, was the inconvenience likely to arise little? Was the casting a damper on the whole service of the navy; was the showing that merit, however successful, however bright, however illustrious, however glorious in a captain, was no recommendation to the flag, a little inconvenience? He conjured the House not to set a precedent that would destroy all enterprise, but by agreeing to the motion for a committee, to restore confidence to the navy, and increase ardour by reviving hope in the breasts of its officers. Mr. Fox took some notice of what Mr. Bastard had said concerning the epidemical distemper that had broke out in our navy in the course of last war, and declared the observation had not afforded him much satisfaction; let the House recollect, that the cause of that matter originated in its being conceived that the administration of our marine was in bad hands, and merit not protected as it ought to be. Let them beware that the same opinion did not again go forth among the navy.

Sir *Peter Parker* said, that when a noble earl, so much to his own honour and the advantage of the service, presided at the head of the Admiralty, the glorious action of the 12th of April 1782 took place, and most of the important services had been effected by the oldest admirals. He paid lord Howe a compliment, but said, he saw no reason for selection at present in a promotion to the flag. Formerly, when we had only nine admirals, a selection was indispensably necessary; but now, when the list of admirals was fifty-seven, surely a sufficient number fit for any service might be found at all times. He spoke of the peril and fatigue of a naval life, and said, if neither honours nor emoluments were given to officers who had behaved meritoriously, and gallantly distinguished themselves, he feared the thanks of the House would be considered only as an empty compliment.

Mr. *Dundas* opposed the motion, as it would, if carried, produce these two bad consequences: first, that all future promotions must be by rotation and seniority; and next, that no first lord of the Admiralty would in future subject himself to such an inquiry as that now proposed, which of necessity would make him prefer a promotion by seniority to responsibility, and the certainty of disobliging. He justified lord Howe's conduct by saying that no person had imputed a corrupt or sinister motive to the noble viscount, and it was natural for him who was responsible for the officers he employed, to make those captains admirals, in whose hands he could trust his character with the greatest confidence.

Sir *James Johnstone* said, it was a question of feeling, but he felt not for the first lord of the Admiralty, nor for all the lords of the Admiralty, but merely for the poor captains. He complained of the general neglect of the service, and said, even the poor office of vice-admiral of Scotland was not given to a seaman, but was held by lord W. Gordon, the deputy ranger of St. James's Park.

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Mr. *Sheridan* would not have risen, had he not heard it asserted that no one captain had been promoted but such as the first lord could have a confidence in. That was the only consistent reason that had been given for the promotion. Mr. Sheridan went into a statement of the number of admirals on the list; and after having mentioned the various different descriptions, declared, that when the promotion took place, there were 24 admirals at least as able in body and spirit as those last made. To what, then, was the last promotion to be ascribed? Was it done in a time of war? No; but on the mere rumour of a war. A right hon. gentleman had asked, would that House pretend to judge of the qualifications for admirals? They would not pretend to judge of the qualifications for admirals, but of one thing they surely could judge, and that was, whether the Admiralty acted in their promotions to the flag consistently with their own rules. The fact was, they had not done this. In the case of capt. Laforey, the Chancellor of the Exchequer said, that the first lord had laid it down as a rule, that officers taking a civil employment during hostilities, abandoned their pretensions to military preferment. He admitted it was a good rule. Another rule was, that no person of bodily infirmity was entitled to promotion; that was a good rule likewise. Again, any officer who had not been at sea in the course of the preceding war was not to be promoted to a flag; and this was a third good rule; but their rules and their conduct did not agree. Capt. Laforey was set aside and sir C. Middleton promoted, though both holding civil employments, taken by each *flagrante bello*. Sir John Lindsay for it was necessary to speak out, though a most respectable officer, laboured under such bodily infirmity, that it was not likely he should go to sea again; while capt. Robinson, one of lord Rodney's captains, who lost a leg in the action of the 12th of April was suffered to limp away from the Admiralty without employ, though otherwise hearty, and as fit for service as ever. As there were 24 admirals on the old list fit for service, and no service very likely to be wanted soon, the late promotion could not be justified on the principle of state necessity, and the moment that this principle was abandoned, in came the principle of honorary rewards and emoluments, under which construction the late promotion fully merited the charge of being partial, capricious, and oppressive. He said he liked the minister's argument of responsibility, but he feared it would not much hurt them, as he observed it always came from themselves. Their responsibility was to confess that they were responsible, but to stop all inquiry, and prevent the House from deriving any benefit from their responsibility. He differed a little from his right hon. friend, as to that House only having a power to interfere with the executive department for the purpose of censure or punishment. He agreed with lord Kaims, who had well observed, that there was nothing like abuse, or even suspicion of abuse, in the executive departments of Government, of which that House could not take cognizance. That House had a right to interfere whenever it thought necessary, and to go to the Crown with wholesome admonition. The promotion, if not inquired into would break the heart of the navy, and perhaps ruin the service.

Lord *F. Campbell* said, that if the motion was carried, it would not merely be the complaint, that four or five officers had been ill-used, but they must inquire into the claims of the whole 36. It was better, therefore, at once, to negative the motion.

Mr. *Pitt* explained the case of captain Bray, declaring that when lord Howe advised him to apply for his superannuation, the noble viscount knew not that he was positively precluded from having it by the order of council of 1747, which expressly excepted captains who had not been sent to sea during the war.

Captain *Macbride* said, that his hon. friend who had brought forward the motion had so ably argued it, that he would merely touch on one part, that had not yet been much touched upon, and that was the case of capt. Bray, who had been set aside from his superannuation, because he had not been at sea, though he had served his country as essentially by going upon the impress service, and raising 6000 men, 5000 of which were seamen, enough altogether to man 24 sail of the line. He enlarged on this circumstance, and spoke of the difficulty, the disagreeableness, and the great importance of this line of service, which, after what had happened to capt. Bray, who had lost his rank by it, none but a mean scoundrel would ever venture upon.

Mr. *Martin* reprobated pressing, and heartily wished the practice were abolished. He said, he understood that the promotion of the officers whose names had been so

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often mentioned would have only put the public to the expense of a few thousand pounds. He sincerely wished, therefore, that it had taken place. He condemned the enforcing economy too scrupulously with respect to our navy; it was the service deservedly a favourite with that House, and one to which the House was always ready to act with generosity and spirit. He was sorry to observe, that a preference appeared to be given to the other branch of the military, the land service. Means of economy suggested themselves to his mind, which, if adopted, would save more than the promotion would have cost. He mentioned the application of the income of the vacant Mastership of the Rolls in Ireland to the naval service, and also stated the propriety of our not sending persons of higher rank as British ministers to foreign courts, than foreign powers sent to our court. He spoke in particular of the Dutch envoy, who had lately arrived; and asked, while the United States only sent an envoy here, what occasion there was for us to maintain an ambassador at a large expense at the Hague? He observed also, that we had a minister at the court of Florence, where he did not conceive there was much necessity for us to maintain any minister.

Mr. *Pitt* was anxious to speak to two facts touched upon by the hon. gentleman and respecting which he should be extremely sorry if a false impression went abroad. The first of these was the hon. gentleman's assertion, that a preference was given to the army, and that the navy was governed by too rigid an economy. The reverse of this was the fact, and if gentlemen would look to the sums voted for the navy that year, they would find the total exceeded by some hundred thousand pounds, the sums voted for any former peace establishment of the navy. With regard to the expense of our ministers at foreign courts, he hoped the hon. gentleman did not consider that, on which, equally with our navy, the safety and tranquillity of the kingdom depended, as a waste, or a needless expenditure of the public money. It was on the laudable exertions of our ministers abroad in forwarding and negociating treaties of alliance with such powers as would be most effectual auxiliaries in case of a war, that the peace and defence of the country depended almost as much as upon the strength and discipline of our marine. It so happened that he held in his hand a paper which he had the happiness to have received that evening in the House, the purport of which was, to inform him, that the secretary of sir James Harris, our minister at the Hague, had just arrived with the treaty of alliance concluded with the United States, and in the negociation and effectual conclusion of which that very able minister had the merit of being principally instrumental. To that minister the country was under the highest obligations, and therefore, in the very moment of the most satisfactory conviction of the successful efforts of sir James Harris, he hoped the hon. gentleman did not mean to state it as a matter of serious complaint that the expense of the establishment of a minister, whose services to his country were inestimable, was too much for the public to bear, or that it was altogether unnecessary.

Mr. *Martin* had not the most distant intention of saying any thing the least disrespectful of sir James Harris, but had merely thrown out a hint that the purposes of economy might be better answered by abridging the expense of such ministers abroad as were not absolutely of any great service, than by stinting the distribution of honours and rewards to meritorious and deserving naval officers.

Captain *Berkeley* contended, that there must be a discretion lodged somewhere as to the choice of captains thought fit for command; and where ought it to be lodged but in the Board of Admiralty? That Board had the responsibility, and were to answer for the officers they appointed to serve; but how was it possible for them to answer for their appointments unless they had the power of exercising their discretion? If the motion should be carried, no power of selection would exist hereafter; but every officer, however unfit for command, must become promoted to the flag in rotation. If, on the other hand, the motion should not be carried, the power of the Board would be fortified by a precedent; and if any officer in future should be passed over in a promotion to the flag, and he applied to the first lord to assign the reason, no reason would be given him, but he would be told that the Journals of that House would afford him proof, that the Board had it at their option to exercise their discretion in the selection of captains to be promoted.

Sir *Richard Hill* said, that however the question might be worded, the plain inference and meaning of it amounted merely to this: ought the House to inter-

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fere in the promotions of captains to the rank of admirals? He thought they ought not; and for this plain reason; if they did, there would be no end to applications for them to exercise the right of interference, and no possibility of their avoiding it with any sort of consistency. It would not be merely the military preferments, but the preferments of the clergy, the law, and every other profession. If the House once interfered in matters of Executive Government, there would be no drawing the line, or saying where they ought to stop.

Sir *George Collier* hoped, that some new rule would be established to govern future promotions to the flag, that brave and meritorious officers might know that extraordinary merit would not be overlooked. With regard to the House's interfering in the promotion and rewarding of military officers, it was not an unprecedented circumstance. In the reign of queen Anne, complaint had been made of the conduct of commodore Carr; an inquiry had been instituted, and the complaint having been proved to be founded, the House addressed the Queen to punish the commodore, and he was punished accordingly. It was evident, therefore, that the House had exercised its inquisitorial power in respect to the conduct of an officer, and he hoped, it would not be thought unconstitutional or improper to do so, in a case where important services were admitted on all hands to have been performed, and those services had proved ineffectual claims to the sort of honour, and reward to which every officer naturally looked up as the certain acquisition of extraordinary bravery, and singular and successful skill.

Sir *G. P. Turner* said, that from what he had heard in the course of the debate, he was convinced the House ought not to exercise their right of interfering.

After a reply from Mr. Bastard, the House divided:

Tellers:

Yeas	Sir James Erskine - - Captain Macbride - -	134
Noes	Mr. Yorke - - - - Mr. Steele - - - -	150

So it passed in the negative. As soon as the House was resumed, Mr. Bastard gave notice, that he would again bring the question under discussion in another shape.

Proceedings upon the Impeachment of Sir Elijah Impey.] April 28. The House having resolved itself into a Committee of the whole House, to consider further of the several Articles of Charge of High Crimes and Misdemeanors against sir Elijah Impey,

Sir *Gilbert Elliot* rose and addressed the Chair as follows:

Sir Godfrey Webster; It is usual for those who are to treat of any great affair, to begin by magnifying the importance of their subject. If I refrain from this practice, I trust, however, I shall hardly be supposed, to account the matter which I am to lay before you of a mean or trivial nature. The contrary opinion is, indeed, my principal reason for abstaining from this accustomed exordium; and I am too strongly impressed with the dignity, and the interesting nature of my subject, to entertain a doubt of its affecting this assembly, as deeply as myself, or not to know, that every topic, to which I might resort for the purpose of raising an interest in their hearts and imaginations, must have been long since anticipated and exhausted.

Indeed, Sir, if this subject does not already rank in this House, amongst the most important, and the most interesting, that ever exercised the judgment of this, or of any other national assembly, I may not only be silent on that head, but I may as well retire at once from your presence, and abandon as desperate, both the present and every other undertaking, of a public or a generous kind. You are already acquainted with the nature, and the objects of this proceeding;—you know that on one hand, the fame, the fortune, the liberty of an individual are at stake; that this individual is one, who has filled a station amongst the most eminent, and, surely, amongst the most venerable, that exist in human society. These considerations are powerful calls, I admit it, on the gravest, the most scrupulous, I will even say, on the most tender exercise of the judicial and deliberative faculties, of any public body. On the other hand, I have a right to remind you, that the weight of an accusation, and its claim, not to your hasty, passionate, wanton, or even unfeeling decision, but with every due allowance of personal indulgence and sympathy, which must ever form a feature, in the character of all tribunals composed of men, that its claim on your diligent,

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and, above all, on your faithful judgment, grows exactly in proportion to the eminence of the person accused, and, surely, to the venerable nature of the office which he filled; that the violation of a trust is criminal, in proportion as the trust was sacred, and that the enormity of a crime increases with its distance from the duty to which it is opposed. The Committee knows, then, that the person accused was an English judge; that he was commissioned by his country, to bear the new blessings of impartial law, to the inhabitants of a distant province; to oppose habitual corruption and oppression, by a new system of reform, and by the first example, which, it was supposed, had ever been exhibited to that country, under our Government at least, of perfect integrity, independence, learning, and wisdom, in the administration of justice. That, amongst a variety of other accusations, the particular charge brought on this day, against the person who held this station of dignity and trust, is, that the first exercise of his authority, the first specimen of his conduct, was to sacrifice the life of a fellow-creature, one of those whom he was sent to comfort and protect, to the basest purposes of political corruption, to ends diametrically opposed to the spirit of his appointment, and that the means he used, were the perversion of every function, and the abuse of every power, committed to his charge. To come, in a word, to the business of the day, That sir Elijah Impey condemned to death, and executed a capital sentence, on the Maha Rajah Nundcomar, contrary to clear law, contrary to fact, contrary to mercy, contrary to equity, contrary even to sound policy, if policy could be admitted as a consideration on such an occasion; and that this atrocious act was done, for the purpose of serving the worst designs, and the worst passions, of a corrupt and guilty party.

Such is the substance of the charge which I laid on your table in the month of December, and I did so, as I thought even then, on no light, nor indeed, on any doubtful or uncertain ground. Such is the charge, however, that I am come this day to repeat, in substance and in detail, with yet greater confidence, and a more confirmed conviction of its truth, because I do so now, fortified in every material point, first, by evidence which I had not then heard, but next, and above all, by the testimony of the accused himself, both in direct concessions, and yet more, as I think, in the weakness and imbecility of his defence, which, if it did indeed possess those defects, can plead for them, neither want of deliberation in preparing, nor, I am sure, of the most consummate art and ability, in conducting it. I am sensible that I may perhaps incur, in the very outset, a charge of presumption, by thus slighting a performance, which, I am constrained to own, did however appear to be received, with no small degree of favour, and which we were told, indeed, from no mean authority, had made a considerable impression on a part of this House. The candid and even favourable reception, in this place, of any thing offered by an individual standing on his defence, whatever my opinion might be of the substance and validity of the defence itself, had, undoubtedly, nothing in it which ought to surprise me, and I confess there was yet, perhaps, less reason in the present instance, then in many others, to wonder at some impression having been made on the feelings and imagination of the House. For, besides the favour due, or if not due, yet never to be withheld, from one in his situation, from one standing before us in circumstances of anxiety and distress, exhibiting, in his own person, and in our presence, the melancholy spectacle of degradation from rank, from splendour, from power, from pride, to the humiliating condition of a culprit at your bar; besides, I say, the triumph, on such occasions, of our present feelings over our deliberate, but colder recollections, of our senses over our reason, which is common to every trial of every criminal, the particular circumstances of this accusation, and of this defence, do undoubtedly much enhance the effect and the advantage of this general sympathy with the accused. While he stands before you in person, in an assembly of his countrymen, composed indeed in part, of personal friends, and in a greater part of those who have a common bond of union with himself, in long acquaintance, and in similarity of profession and pursuits, while to such an audience, he may display all that is affecting in his situation, and work on the very organs and senses of his judges; what have I to oppose to such powerful agents, but a cold narration of crimes, committed, I confess, years ago, of offences against distant, foreign, and unknown persons, of the sufferings of those whose names we can scarcely pronounce, whose distance,

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separation, and dissimilarity, seem to leave them nothing in common with ourselves, and, as I think I have heard it eloquently, but not more eloquently than justly, said, give to the transactions in that distant part of the globe, even of our own times, of our own cotemporaries, nay of those whom we see at this moment sitting amongst us, rather the air of some remote period of history, than of a living story, depriving the losses of that country, their afflictions, and their wrongs, of that lively interest which belongs alone to real and individual concerns. I feel this, however, to be a difficulty which it is more easy to state than to solve, and a disadvantage which I may lament or complain of, but which even you cannot relieve me from. We may indeed know with certainty, but we shall know in vain, that every circumstance in the situation, and the unhappy story of Nundcomar, has not only as valid a claim on our justice, but is as natural an object of sensibility and compassion as all that has been presented to our imagination from the bar. Our senses will still be an overmatch for our reason; and the contest will still be unequal, between the greater object when remote, and the trifle that we see. The deepest and most aggravated afflictions, will hardly touch us in narration, while we are alive to every little murmur of him who stands before us; and I shall claim in vain your sympathy for Rajah Nundcomar, while the voice of sir Elijah Impey himself is still sounding in your ears. Nundcomar, we know, had filled stations and enjoyed rank, not inferior to those of sir Elijah Impey; but they were not derived from us, and were of an order which we know not how to appreciate. His degradation at the bar of a criminal court, arraigned as a felon, could not be less in the eyes of his countrymen, whose delicacy on all that regards rank or honour we are acquainted with, and on whose opinions all his consequence and happiness in life depended, nor could it be less acutely felt by himself, than that of him who stood at your bar, and presumed from thence to arraign the proceedings of your committees, and to insult the characters of your members. The protestations of innocence made by Nundcomar, were not less firm, less uniform, less constant, less dignified, nor, surely, less ratified by the solemn season of sincerity at which they were made, I mean the approach of death, than the lofty and recriminatory professions which were offered in this place. The event of Nundcomar's prosecution, and the penalty he suffered, will hardly be thought more lenient, or better proportioned to the offence, than that which the judges of sir Elijah Impey can, in their utmost severity, inflict. The age of Nundcomar was greater, and his infirmities were not inferior to those of sir Elijah Impey, but he had no opportunity of pleading them here. His friends were as numerous, but they were not amongst his judges; they were no doubt as zealous, but we are beyond the reach of their activity. His children were probably not fewer than those whose number we have learnt, but they have no father here to touch our parental sympathies by counting them, and to divert our attention, from the accusation of the parent, to his innocent family. The difference which confounds all established proportion, all due comparison, all just appreciation, in the two cases, is, that sir Elijah Impey is one of ourselves, that he is here, that we have seen and heard him, while the other is a stranger, of whom we can only read. I have no means, Sir, of placing at your bar, the aged and infirm Rajah, attended in moments of affliction and anxiety, by a young and near relation, who, while he might lend the firm voice and active spirit of his years, in aid of him, whom nature must have taught him to revere, might perhaps co-operate, yet more powerfully, with the cause, by displaying that which, without regard to the parent's guilt or innocence, would surely be honourable to himself, that which, in a similar situation, I trust, I have not been the last to deem the worthy, the amiable, the affecting sensibility of love, of duty and of blood. These, Sir, I say are advantages of which sir Elijah Impey has, without doubt, a full and perfect right to avail himself, since his situation affords them; but I may at least be permitted to observe, and, if it were only for the sake of equality, to lament that they are wanting on the part of the accusation. To them, too, I may be allowed without want of candour towards him, and surely without offence to this House, to ascribe at least some share of that obvious favour, which must otherwise have excited, indeed, much more of my wonder.

Without denying the right of sir Elijah Impey to exhaust all the resources to which I have alluded, and to use that species of defence which he might think

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best suited to his case; admitting as I do, without reserve, his title to these advantages, the judgment with which he has chosen his part, the skill and dexterity with which it has been performed, it is surely yet competent to observe, what could hardly escape the most partial of his hearers, that a defence composed of these materials, and constructed on this principle, against an accusation such as this, is a better proof of ability than of innocence, and that he has consulted, as undoubtedly he had a right to do, if so he chose, rather his safety than his dignity. Shall I be thought too harsh, or too uncandid, if I say that one who knew this accusation to be a calumny, and was conscious of a clear, explicit, and satisfactory answer to so foul a charge, would hardly have condescended to shelter himself under such arts, would have disdained an indemnity thus procured, would have fled as from his ruin, even the suspicion of owing but the smallest portion of his security, to the compassion and feelings of those, whose impartial and unprejudiced judgment, could alone save his honour; would have been jealous, in the extreme, of every topic which should but seem to interpose between him and the merits of his cause? If I had reason, then, on one hand, to dread the first impression of this part of sir Elijah Impey's defence on the feelings of his audience, I find, on the other hand, now that we are arrived at the season of cool discussion, a ground of confidence, in the tacit avowal, furnished by the party himself, that he does not think his cause secure on its merits alone, nor without the artificial aids I have described. This confidence is, indeed, much increased by another consideration, which has not escaped the notice of the House. I mean the form in which he thought fit to deliver his defence, and the caution he has judged it prudent to use, in withholding it from the deliberation of those who are to pronounce on it. Here, again, I must desire not to be misunderstood. I do not deny the right of sir Elijah Impey to speak, or to suppress, whatever he thought best for his interest; and I admit that he was under no obligation of law, or perhaps of justice, either to deliver what he actually did at your bar, or, when delivered, to commit it to writing or to print. But I claim the right on my part to observe, that the mode of defence he has chosen, can be prudent, or advisable, in the case of guilt alone. To me, it seems to furnish a silent confession, that he knew his defence to be such as could not stand the test of deliberate examination, nor be safely trusted with the leisure of those to whom it was addressed; and, that to inform his judges even of his own case was dangerous to his cause. The interests of guilty, and of innocent men, are directly opposite on this point; and, while either total silence, or that which comes nearest to it, a defence delivered in such a manner, as to escape the memory, and elude the investigation of those who hear it, is the part which best suits him, whose conduct cannot bear the light, so nothing can be more clear, than that the valid and satisfactory defence of innocence, cannot, for the interest of the accused, be too explicit in itself, nor too forcibly impressed on the recollection of his judges; since the better any real evidence of his innocence is understood, and the better it is retained, the safer must his condition be. I know that it is often the practice of able and experienced advocates, entrusted with the defence of those unhappy persons whose fate it is to hold up their hands at the bar of a criminal court, to stop the mouths of their clients and in doubtful or suspicious cases, their first, and perhaps their most serviceable advice, is silence, in the presence of the accuser, and the judge. I have often heard, and, I think, justly, the prudence of such advocates commended; but although this advice is much to the credit of the advocate's discretion, I own I have never heard it considered as redounding to the honour of the client. I have no doubt, that, if that advice were rejected, the next, on the same principle would be, to beware at least of pen and ink; and if it should happen that a prating client could not be restrained, the advocate would at least take care that his blunders should not be rendered indelible by writing, and that his hand should not attest and perpetuate the indiscretions of his tongue. The first wish would be, that he should make no defence; the next, that the defence he made should be forgotten as soon as heard. If this reserve in the advocate bespeaks no great confidence in his client's case, with which, however, he cannot be personally acquainted, what shall we say of it in him who is his own advocate, who pleads his own cause, and has himself only to advise? It cannot, in him, be merely the caution of a prudent man, who takes the safer part in a case of doubt, but must result from certain knowledge and from personal con-

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sciousness, that his case is, indeed, such as requires it. That which amounts only to conjecture and presumption against the party in the first instance, becomes almost a conclusion of reason in the latter. It has been common to contrast the conduct of another gentleman in somewhat similar circumstances, with that of sir Elijah Impey, whose prudence, and I think, I have heard it called ability, are every day extolled, for avoiding the error, and the fatal example of Mr. Hastings. I am ready to acknowledge that the written defence delivered by Mr. Hastings, at this bar, has been a very principal cause of his impeachment, and that sir Elijah Impey has acted wisely in avoiding the rock, on which he saw his companion wrecked before him. But why was that step fatal to Mr. Hastings, and why is it an example to sir Elijah Impey? Mr. Hastings has been ruined by committing his defence in writing to this House, not because it is dangerous in all cases to make a defence against an accusation, but because it is dangerous for guilt to do so; not because it is dangerous to commit every defence to writing, but because it was rashness and folly in the extreme, to do so by that particular defence. If that performance could have borne inspection, if it could have stood the proof either of reason or of evidence, it is no offence, I hope, to this House, to say, he must have triumphed in this place. I well remember the exultation of his friends on its delivery.—But what has happened? After pledging his advocates to arguments, and misleading them into assertions, received from his own lips, the whole is found untenable, and he is obliged, publicly, and explicitly, to disavow in this House, by the mouth of his agent, that very defence, which, before it could be inquired into, had been received with plaudits and acclamation from his friends, and taken credit for by himself as at once a specimen of his talents, and a demonstration of his innocence. It was, indeed, imprudent to commit such a defence, in writing, either to his adversaries, or to impartial judges; and I know no way of reconciling this conduct with any reputation for good sense or ability, but supposing that he might, perhaps, place a more rational confidence, at that time, in the disposition and temper of those who were to pronounce, than he could possibly do on the merits of the justification he ventured to trust them with. Why then was it imprudent in Mr. Hastings, to deliver this defence in writing? Because it was false, and capable of detection: because it could be disproved by his accusers, and was to be retracted by himself. What can make this an example to sir Elijah Impey, but that his defence is similar to that of Mr. Hastings, and that it cannot be committed to examination without danger, because it cannot be examined without detection? In truth, Sir, a person in the situation of sir Elijah Impey, has but a choice of difficulties; and if the part he has taken be neither dignified as to himself, nor satisfactory to you, or to the world, it may not, perhaps, on that account, be the less judicious; and I to whom the defence pronounced did, I declare it on my honour, and I declared it repeatedly during its delivery at your bar, appear a complete establishment of my accusation, although it was composed of those plausibilities which aim only at the ear, and do not attempt even to sink so deep as the understanding, and which are calculated to mislead the judgment by the first superficial impression of an ingenious or rhetorical fallacy: I say, Sir, I to whom this defence on its bare repetition in this place, conveyed such an impression of its defects, can hardly condemn the judgment or the prudence of sir Elijah Impey, in withdrawing it from a closer, or more critical inspection. It became my duty, however, and it was my endeavour, to counteract this measure, by preserving, as correctly, and fully as I could, the substance at least, and the principal and leading topics of his defence; and before I enter on the course of my own argument I find it necessary to make a very few remarks on this performance, which I shall do less with a view to discuss it, than to show that it does not require discussion, and to clear my subject of the foreign and inapplicable matter, in which it has been attempted to involve and perplex it.

The defence appeared to me to consist of two parts, which I would distinguish from each other. First, general topics; and next, particular answers to the points contained in the charge. It is this latter branch of the defence, which, as being alone applicable to the merits of the cause, may seem alone worthy of your consideration; and I shall endeavour to advert to any material parts of it as they occur in the order of my own argument. The other branch of loose and desultory topics, bear, however, so great a proportion to the whole, and appear to have been so much

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the principal object of the defendant, that I should seem to disregard his justification more than it is my wish to do, if I should abstain altogether from this part of the subject. I propose, therefore, to touch on a few of the principal points of this sort, just enough only to show that they are not relevant, and ought to be dismissed from the discussion.

The first of these topics on which I think it necessary to trouble you with a few remarks, is an observation made very early by sir Elijah Impey, that he had been recalled from his office in compliance with a resolution of this House, which stated his acceptance of the office of judge of the Sudder Dewannee Adawlut, as the specific ground for his recall. That he had no notice of any other charge against him; that he had, therefore, prepared himself with materials for answering that particular charge, but had made no provision for his defence on any other article. To this it may be enough to reply, in a very words, that if this argument were good in any proposition, it would be on an application for delay, and for time to furnish himself with the materials which he had neglected to procure, before his departure from India. No such proposition, however, has been offered, and the argument seems therefore wholly irrelevant in the present proceeding; for I presume he does not go quite so far as to contend, that the resolution of recall alluded to, was intended by the late House of Commons, which passed it, or could be admitted by the present House of Commons, or by any other tribunal, as a bar to any other prosecution; or that it was meant to operate as an approbation of every other action, and an indemnity, for every other offence, he may have committed during his residence in India. If sir Elijah Impey did really imagine, that his acceptance of the office in the Sudder Dewannee Adawlut, was the only part of his conduct which would be objected to him, and was the only charge on which he was likely to be called to account, he must have had much less vigilant and zealous friends, than I have good reason to know he may now boast of; for, I speak in the presence of those who know the truth, and can contradict me if I am wrong, it was perfectly understood, it was distinctly, and I may say publicly known, not only to every member of the Select Committee, but to every member of parliament, and no doubt to every other person who took any concern in the Indian inquiries of that day, that the particular charge alluded to, was selected from the rest, not as the only charge to be made against him, but as sufficient in itself to support the proposition for his recall, and at the same time, as so simple and so clear in its nature, as to require no tedious examination of fact, and to preclude any considerable difference of opinion in the House on the question; both of which it was judged proper to avoid at a late period of the session, when there remained little time for the slow inquiries of this House, and a very thin attendance of its members.—There were, none, or very few indeed, who did not acknowledge as self-evident, that from the moment on which sir Elijah Impey rendered himself dependent on the Governor-general and Council, by an office of eight thousand pounds a year, held at their pleasure, he was no longer in a situation to fulfil the views of parliament in the establishment of the Supreme Court of Judicature, and no longer fit to be entrusted with that station, I say there could hardly be a dissenting voice to that proposition, and accordingly, I believe, there have been few questions of moment in this House, especially such as regarded individuals in high situations, who can never be supposed without some personal friends, which have passed with so little show of opposition in debate, or with greater unanimity in the vote. The division, I think, on that occasion, was 41 for the recall, and five members of this House against it. There might not, however, and, indeed, in that stage of the business, there neither could, nor, perhaps, ought to have been, the same unanimity, with regard to the other matters reported by the Select Committee, or to any proposition for a criminal prosecution against him. These were the grounds on which this particular article was selected for his recall: but, I repeat it, these reasons were known to every body, and none were ignorant, that, so far from operating as a preclusion of other accusations, it was the opinion, and the professed intention, of those who conducted the inquiry and proposed the recall, to bring him to a public and regular account on many other points, as soon as his return to England should render that proceeding possible. His friends and correspondents must, therefore, have been extremely negligent indeed, if they did not prepare him for that event; and they must directly and wilfully have misled

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him, if they conveyed, as he says, the contrary information. The Committee will hardly think, that any of the articles which compose the present accusation, could be matter of much surprise to sir Elijah Impey, when they recollect that the reports of the Select Committee, from which they are drawn, were in Bengal long before sir Elijah Impey's departure thence; nor will it easily be supposed, that he was the only man in Calcutta who never opened that book. The Committee will recollect also, that these charges had made a branch of accusation against him in the consultations and correspondence of the Governor-general and Council, which had been communicated to him, and which we find elaborately answered by himself and the other judges, in public papers addressed to the East India Company and to his Majesty's ministers. With regard to the present article in particular, he has informed you, that a copy of the trial was prepared by his direction, and was transmitted by him to England, in order to be dispersed there for the express purpose of his justification. Give me leave, Sir, after all this, to say, that there is something very little to the credit of his cause, and savouring extremely of a spirit, at least, of affectation, if not of fallacy, in telling this House, in the solemn manner in which he did it, that he comes unprepared, and that this accusation is to him matter of the least surprise.

Another topic of the same description, I mean such as aims rather at precluding the proceeding, than answering the merits, is, the concurrence of the other judges in the acts of which he is singly accused, and which sir Elijah Impey relies upon, as an objection to the prosecution against him, although I am at a loss to discover the reasoning on which such a conclusion can be formed. I have never heard that a person accused can plead the guilt of accomplices, in bar of his own prosecution, or as a legal defence of his own crimes: and supposing even the guilt of all to be equal, and the punishment of all equally necessary for the ends of justice, I cannot yet perceive, that injustice is done towards one of the guilty parties, by a well-founded prosecution, and a legal punishment in his case, although the others should escape notice. Their guilt does certainly not diminish his, nor would their punishment mitigate the severity of of his own, or their indemnity increase it. That prosecutors may incur the blame of partiality, by a capricious or interested selection of criminals, is certainly true; but this conduct, although matter of reproach to them, cannot, in my apprehension, afford any defence or indemnity to the culprit; who has no ground for complaint, unless the accusation be false as to himself. So far from any such principle being established in penal law, as that no criminal shall be prosecuted, unless all his accomplices are included in the same prosecution, and all are prosecuted at the same time, I find the contrary doctrine acknowledged by writers on that branch of jurisprudence, who observe several distinctions amongst criminals, as the foundations of a difference in the necessity and in the degrees of their punishment. One of these distinguishing circumstances may be thought not inapplicable to the present case; I mean, that of being the chief or ringleader in any criminal act, who, it is said, ought to be selected from the rest as fitter for prosecution; and, where all are prosecuted, should be distinguished from the rest, by the severity of his punishment. This principle seems to conform with the true object of all human penalties, which do not aim merely at moral guilt, that being the province of divine justice alone, and not to be invaded by mortal tribunals, but are intended only as restraints on political and social evil, and are therefore proportioned rather to the political necessity or utility, than to any abstract rule of right, or speculative justice. The general principle, then, of distinguishing between criminals, and this particular distinction between the ringleader and his followers, are so manifestly founded in utility, and, therefore, in the only just views of penal justice, that I need not detain the Committee by showing, what I consider, however, as equally obvious, that there are few cases indeed in which even the moral guilt of all the parties concerned in the same criminal act, can be deemed equal, and that he who avails himself of the influence of a more eminent station, or the ascendency of talents, to engage other men in criminal practices, is as much to be distinguished for superiority of guilt, in the view of morality as of law. I shall content myself on this subject, with referring to a most respectable authority in the works of a late and justly-admired author. Mr. Paley, in his Chapter of Crimes and Punishments, says, "In crimes, however, which are perpetrated by a multitude, or by a gang, is

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is proper to separate, in the punishment, the ringleader from his followers, the principal from his accomplices." This circumstance alone would, I trust, justify me for considering sir Elijah Impey as fit to be selected for an example of national justice. Sir Elijah Impey must, in many respects, be considered as the ringleader in the acts of the Supreme Court of Judicature. By his office he was placed at its head, and was, on most occasions, the mouth of the Court. He designs himself, indeed, throughout the printed trial, by the word "Court," while the other judges are distinguished by their respective names. It was he, undoubtedly, who represented, in the eyes of the people, the authority of that tribunal; and his eminence, as it gave him naturally a lead in the business and conduct of the Court, which it was neither his inclination nor his practice to forego, so it gives to his prosecution, that celebrity and distinction on which its utility must much depend. In my opinion, Sir, the punishment of the chief justice alone will answer all the ends of justice, by affording, in the first place, some satisfaction to the injured country in which his offences were committed, and next, by a splendid and solemn example to the succeeding judges of that Court, and to all other persons holding situations of eminence and power in that country. If these ends are obtained by the prosecution of sir Elijah Impey alone, I am not ashamed to say, the whole of my object will be accomplished, and without admitting, or denying, the participation of the puisne judges in his guilt, but leaving it to any other person to prosecute them who may have investigated their cases, and may think that measure adviseable, I claim in the meanwhile my right to persist in the prosecution which I have undertaken, not deeming myself bound to look beyond the cause I have in hand, nor thinking it requisite, for the conviction of sir Elijah Impey, that I should either prove the innocence, or arraign the guilt, of his colleagues.

The practicability of one prosecution, and the impracticability of another, is in itself a reason for proceeding separately with the former. Sir Elijah Impey is here to answer to his charge; his recall to Europe, under the orders of this House, has placed him within the reach of your authority, and affords an opportunity of doing justice, in his case, now. The other surviving Judges are absent, and no prosecution, whether merited or not, can possibly be commenced against them, within any reasonable period of time. The final disappointment of justice, incident to such delays, is argument enough for proceeding with the business, actually, and already within our cognizance. These observations, I trust, will be thought a sufficient answer to this argument; yet, I own, I cannot consent to admit thus, without qualification, the truth of the fact on which it has been founded. I positively deny the unanimity of the Judges, so much relied on by the Chief Justice. I ground one of my strongest points in this very charge, on the want of that unanimity. The difference of opinion in this very trial, solemnly declared from the bench, and never retracted, notwithstanding the care with which it has been kept from the public ear, the boldness with which it has been denied, and the art with which it has been attempted to cancel it, is a point, on which alone, if there were none other in the case, it is impossible, that, before any men, not predetermined by partiality and favour, sir Elijah Impey should not fall. This, however, is not the place for the particular discussion of that matter, which will naturally come under consideration in the sequel of my argument; and I shall now pass to another of the general topics, on which sir Elijah Impey has relied.

This consists in the testimonies of various persons, of different descriptions, to the general merit of his conduct, and to the innocence of those acts which are now charged as crimes.

To all these testimonies, and to this whole section of his defence, I might, perhaps, content myself with one general answer. That the opinion and report of others may be admitted, in common discourse, or table conversations, on trifling and inconsiderable subjects; but that no decision on great, solemn, and important affairs, can turn on such slight authorities. That these require the examination and judgment of those who are to decide; more especially in all matters of a judicial nature, the very essence of which is actual and present inquiry, as opposed to the loose, informal, and careless conduct of all other ordinary business. In this instance, Sir, in which the accusation is grounded on the evidence of positive facts, on the authority of law, and on sound and weighty argument, offered to those who are themselves competent to judge of it, I shall certainly think it unnecessary to delay and

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encumber my proceeding, by inquiring or debating, whether any learned lord did, or did not, use the term of a legal murder, as that which expressed the most correctly his sense of that transaction; nor shall I think myself at liberty to waste the time of the Committee, in criticizing the letters of sir Elijah Impey's private friends and correspondents, or in weighing the expressions of civility, or of approbation which they contain. There are, however, one or two points, which have been introduced into the cause under this head of Testimonies, that I must beg the indulgence of the Committee for touching on; and it is not without propriety, that I apply, rather to their indulgence, than their judgment, for leave to dwell a few moments on a subject which I not only confess to be, in my own opinion, inapplicable to the true merits of the cause, but which I do not even believe to have been intended by those who offered it, to have any weight in your decision, nor, indeed to have been addressed to any member of this House, except; individually, and personally, to me. What I allude to is, the mention that has so frequently been made, both from your bar, by sir Elijah Impey himself, and afterwards in debate, by his professed friends and defenders, of a name which, the Committee will easily believe, cannot be indifferent to me, and which, I do confess, I never have heard, nor probably ever shall, without emotion. I mean the name of Mr. Alexander Elliot, a near and dear relation of my own, whom I and the world had the misfortune to lose, at a very early period of his life, in the year 1779. Before I reply to what I conceive to have been the true motive for introducing this topic, I will say a few words to that which was assigned, and which I consider, however, as no more than the pretext or ostensible object, of those gentlemen who have thought proper to dwell on it.

Sir Elijah Impey described the character and talents of Mr. Elliot, in terms which fell short of the truth, only because there are no expressions, nor any form of words which can do justice to his merits. The report which sir Elijah Impey made of the talents and virtues of that character, was confirmed by the genuine, sincere, and, above all, by the just and faithful testimony of Mr. Bogle, his particular and bosom friend, from whom a letter, written recently after the death of Mr. Elliot, was read to the Committee. Several other gentlemen have confirmed these testimonies, and have spoken with warmth, on a subject, where warmth could not mislead them, and where the utmost excesses of partiality, and love, could guide them only the nearer, and the more surely, to the truth. The argument, then, of sir Elijah Impey was; that Mr. Elliot, possessed of these qualities, was, in the first place, in habits of friendship and intimacy with himself and his family; that he acted as interpreter on the trial, and was, therefore, present and acquainted with the whole proceeding: that Mr. Elliot never expressed an opinion, that the conduct of sir Elijah Impey had been criminal on that occasion, but, on the contrary, continued on the same footing of intimacy as before, and conducted himself, in other respects, in such a manner as to afford a favourable testimony of that transaction. Nay, Sir, this was not all. Sir Elijah Impey added, what I could not hear without surprise, nor, I own, without indignation, from him; that, if the diabolical motives, imputed in this charge, had existed in the breast of sir Elijah Impey, they must also have existed in the breast of Mr. Elliot. He has not been contented with claiming the testimony of Mr. Elliot's favourable opinion, but he has endeavoured to implicate him in his guilt; and, if he cannot clothe himself in the purity of that gentleman's character, he is determined, at least, to stain his friend with the blackness of his own. It was with equal surprise, and not with less indignation, that I heard an hon. gentleman in this House, who professes also affection for that memory, use language, which points the same way. An hon. major has more than once, in describing this accusation, called it that of a murder in which the brother of the accuser was, or, I suppose he meant, must have been concerned, if it existed. How far, either sir Elijah Impey, or the hon. gentleman alluded to, have evinced the sincerity of their affection for Mr. Elliot, others may determine. To me it seems, as if, in the one instance, the pressure of his own danger, which, like the fear of a drowning man, would snatch even a friend into the same peril, has prevailed over the regard he may have entertained for that friend; and, in both instances, not less in that of the hon. gentleman than of sir Elijah Impey, the stronger passion in their natures has subdued the weaker. Love has been trodden down, and extinguished by hate; and, rather than not wound me, they would strike even through the bosom of their

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friend. Sir Elijah Impey then, first, cites the testimony of Mr. Elliot in his favour, and so far as that claim extends only to the general opinion entertained by Mr. Elliot of sir Elijah Impey, or to his habits of society and intercourse with him and his family, little need be said; for I think it no violation of my affection for that memory, to dismiss even this with all other general testimonies, as unfit considerations in an actual and solemn inquiry of our own. Our own judgments cannot, nor ought to be superseded; nor can our own faithful and personal inquiry be precluded, even by a solemn and judicial decision of other men, who may have examined the same matter, with the same accuracy, and with the same obligations of public trust and duty, as ourselves. Much less can the opinion of persons, not bound by any trust, nor inquiring with any formality, but at liberty to follow any bias of their friendships or their enmities, be offered, with any effect, in a grave and important public proceeding—If any such testimony could prevail, I am not indeed the first, but I believe I am not the least sincere, in *allowing* weight to the judgment and to the honour of the character which has been alluded to. Sir, if there ever existed a perfect union of splendid talents, with sound judgment; of both these perfections of the understanding, with every virtue of the mind, with every soft, gentle and endearing affection of the heart; and of all these qualities, with the most captivating manners that ever gave grace and charms, or added power to virtue; all this was his; and all was his, at an age when the merits and the defects, of other men, are yet but in their blossom. Sir, I believe that even in this period which has been thought fertile of early fruit, I believe that, even in this place, I may, without the exaggeration of partiality say, the world perhaps never furnished a stronger example of ripe character and understanding in early years. He was indeed, a prodigy of young maturity, in talents, in judgment, and in virtue. This is a subject on which it is impossible I should speak without pain, yet I cannot but rejoice, I cannot but thank these gentlemen, even for the pain they would inflict on me, while it affords me an opportunity to open my heart on a subject, on which it once delighted to dwell, on which it once could dwell with no allay of grief, or of regret, but which, even now, though melancholy indeed, is yet the most pleasing recollection of my life. I thank them for this opportunity of pronouncing, in the presence of a country to which he did honour, that praise which even the affection of a brother cannot exaggerate. Do not, then, let these gentlemen imagine, that they have taught me how to admire, or to love that character. They have talked, Sir, of affection and of friendship. Do they flatter themselves that they have ever loved him as I did? Sir, he was my brother—but he was more—he was my friend—My friend and brother—the friend of my childhood—the first, the earliest, the steadiest, perhaps the warmest attachment of my life. I am not to learn, then, his merits from them. These are not admissions; they are not concessions extorted by an adversary. I loudly proclaim the virtues I have described; I boast of them; I glory in them; I deliver, now, no more than that which has long, and will ever, be the strongest and the fondest conviction of my heart. Should it, however, Sir, fare with my love, as it often will with that which is the most sincere, and should its frankness bring that in doubt which it best proves; I will not withhold what I think due to justice, and what, I know, is not disparaging, either to my affection, or its object. In availing himself of the great and good qualities of this character, as a testimony in his favour, sir Elijah Impey did not think fit to mention one circumstance, which I do not think fit to omit, a circumstance which, notwithstanding the knowledge I have, and have professed, of all the rest, should alone draw, even from me, his brother, a firm and determined protest against the force of any testimony, drawn merely from his general opinion of the transaction before us—I mean, Sir, that my brother was nearly, intimately, and warmly connected, not with sir Elijah Impey (if he was I know nothing of it) but with Mr. Hastings, the party, next to Nundcomar himself, most deeply interested in the business. Mr. Elliot was, I think, seventeen when he sailed for India. He went there from school, and from the moment, I believe, of his arrival or very soon after, he was distinguished by the notice of Mr. Hastings. He was taken into his family, and into his most intimate and implicit confidence. There was nothing in the distinctions conferred by power, in the splendour, and the near contemplation of great talents, in the confidence of a statesman, in the dignity and importance naturally belonging to an

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early participation in the business and the councils of a great empire, which did not at once conspire to dazzle his opening mind, to seize first on the imagination, and then on the opinions of this young man. There was nothing in private friendship and endearment, nor any thing, indeed, in solid service, which did not claim and ensure, the attachment and the legitimate devotion, of his feeling, grateful, and honourable character. With this connexion, with these sentiments, and with a knowledge of the deep interest of Mr. Hastings in this business, is it to be wondered at, if Mr. Elliot should not have viewed, without a strong bias on his judgment, a transaction, which, by blackening, discrediting, and undoing the accuser of his patron and his friend, contributed to restore his character and protect his fortune? Sir, it is not within possibility, I should be grieved that it were, and should think I said nothing favourable of my brother, in supposing, that he should have contemplated this scene with the impartiality of a stranger, or of an indifferent spectator. That his conduct was impartial, was faithful, was irreproachable, throughout the delicate and arduous duty he discharged on that occasion, is, thank God, beyond all question, and has been born testimony to by those who had alone an interest in denying it: but that his judgment was without bias, I do not even wish to believe. Sir, on this account alone, I must, on behalf of the people of India, on behalf of British fame, on behalf of the general justice of nations, and the interests of humanity; I must, Sir, in the character which I now bear, firmly protest against the testimony of my own brother, merely to the general nature of this transaction, as unfit to be offered or received in this place, and on this occasion. But, in truth, I need make no such protest. That testimony was never given, at least never to my knowledge, nor to that of this Committee, and I deny that any circumstance has been yet adduced, or that I am acquainted with any, from which a declaration of Mr. Elliot's can be drawn, favourable to the conduct of sir Elijah Impey in this business. Of his general habits of intimacy, of familiarity, or society, it is idle to talk. The particular circumstances relied on, are these. That he interpreted on the trial, that he did not afterwards discontinue his intimacy with sir Elijah Impey: and that he consented to bring a copy of the trial to England, and to publish it there in justification of the Judges. On this foundation, sir Elijah Impey grounds, not only a claim to the testimony of Mr. Elliot in his favour, but also what I think the abominable attempt to involve this gentleman in his crime. If the interpreter on a trial becomes responsible for the judgment, and for the event of the proceeding; if he is supposed to partake in the errors and misconduct of the Court; and if he must share in its blame and its punishment, then must every one present at that crowded proceeding be the accomplice of sir Elijah Impey; and according to his argument, this impeachment ought to stop, because I have not included in my charge, the jury, the advocates, the clerks, and all the officers of the Court. It is not, then, on this circumstance alone, that sir Elijah Impey can propose to establish, either a testimony in his favour, or a participation in his crime. But, forsooth, this circumstance, coupled with the continuance of the common intercourse of society; and, above all, with his consent to execute a particular commission, is to have that effect. Mr. Elliot brought home the trial, and printed it at the desire of sir Elijah Impey, which in the reasoning of that gentleman at your bar, amounts to a declaration, that he approved of the conduct and event of that proceeding, and consented to share in the responsibility of the chief justice. Sir, I wish sir Elijah Impey, when he gave this commission to Mr. Elliot, had explained to him the extent of the service he was to undertake, with all the consequences annexed to it. I am persuaded that, if he had done so, this argument, at least, would have failed him. When Mr. Elliot returned to England in the year 1776, he did not come as the agent of sir Elijah Impey: he came on another account. He was the agent of Mr. Hastings, and sir Elijah Impey took that opportunity of transmitting to Europe a copy of the trial. This is all I know, or believe of the matter. This is all the Committee knows of it. If there is any other, any stronger, or plainer declaration of Mr. Elliot's, favourable to sir Elijah Impey, I can only say I am not acquainted with it, nor has it been communicated to this House. I certainly do not pretend to answer for my brother's opinions and declarations at that time, nor can I, with confidence, charge my memory with a negative proposition; but this I can say with assurance, that in the communica-

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tions I had with him during his residence in England on that occasion, I do not recollect, that a word ever fell from him in justification or approbation of the Judges in that transaction. The attempt to convert this service of civility, the mere execution of a commission, which, even with the opinion I now entertain of that transaction, I protest I think I should hardly, myself, have refused; the attempt, I say, to convert this into an approbation of his conduct, is so absurd, and the attempt to convert it into a participation in his horrible crimes, appears to me so abominable, that I think it may be left in all security, for the judgment of the Committee, without farther reply; and I have no doubt that the Committee will agree with me in believing that such an argument could not be the true purpose for which this subject has been introduced, and that it was intended, in truth, not as a defence of sir Elijah Impey, but as an attack upon his prosecutor. I conceive but two views in which this topic can have been so much and so eagerly resorted to, and if the subject should appear of little moment in the business before us, I will yet rely on the indulgence of the Committee for a few moments attention, on a matter which has been evidently aimed so directly and personally at myself. Sir Elijah Impey then and his friends, can have proposed but one of two things. First to throw some prejudice on his accuser; which, as bearing, at least the appearance of serving his own cause, I acknowledge to be his right, and I do not complain of it—the other, I confess, I can with difficulty believe to have been the object of him, or any other man that lives—I mean that of giving pain to me, without even the hope or prospect of advantage to himself, by forcing into my notice a subject, which, he knows, cannot but wound and afflict my private feelings and recollections. I say I should be loath and slow to ascribe such a motive to any gentleman because it can be founded only in a low, contemptible, and unmanly malice, and can exist only in a base as well as a perverse and brutal nature. If it be possible, however, that this which was sure to be the consequence, should also have been the purpose (a thing which, I fairly profess, I cannot yet believe) I will freely give to him, and to any other gentleman who may entertain the same wish, the satisfaction of knowing that they have completely succeeded, and always will succeed, as often as the experiment is repeated. They will, in the first place, recall to my memory the event of my life which I have most lamented.—But I own they will give me pain of a nature, perhaps, still more acute, by setting before me, as clearly and as strongly as they can, the opposition between the part which I have thought it my duty to take in the affairs of India, and the connexions, the attachments, perhaps the opinions, of one who was so dear to me. The oftener, I say, and the more distinctly, they place these things before me, the oftener, and the more surely may they depend on wounding their enemy. But I trust this is the only purpose in which they will succeed; and that, however I may lament the circumstances they like so much to dwell on, I am yet, I thank God, incapable of repenting any part of that conduct. I am not less confident, that they will be as unsuccessful in affecting my character with any prejudice in the estimation of this House, or of my country. It is, indeed, new, Sir, to hear a sacrifice to duty imputed as a crime; to hear it denounced as such in the assembly of a nation; and I am yet to learn, that the value of that sacrifice, and the pain with which it is made, can either render it culpable, or enhance its blame. God forbid that I should boast of doing my duty, as an extraordinary merit, or as entitling me to extraordinary praise; but neither will I condescend to defend it as a crime. Let the world consider my conduct, let them compare it with what they know, or can learn, of my public and private life, and let them pronounce on the charge, which I think is here implied, of my sacrificing private affection and love, to any object but my duty. It is a subject on which I choose to be silent. I do not think it fitting, nor am I, I own, humble enough, to speak on it myself. Sir, it is well known, that my first opinions, if those can be called opinions which are founded on no knowledge or consideration of our own, my first wishes, the first part I took in the affairs of India, were all directed by the affection and confidence I had in that brother. I was as well convinced of the merits, the talents, and the virtues of Mr. Hastings, as any other of his warmest admirers. Thus pre-occupied, and in these dispositions, I began my acquaintance with India, at an early period indeed of my parliamentary life. I acted on this principle during the first inquiries of the select committee, of which I was a mem-

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ber; and I rejoiced in the opportunity, to profess myself the friend of Mr. Hastings, and to busy myself in his service. I am now a manager of his Impeachment. Sir as I am not ashamed of my first prejudices in his favour, when I look back at their origin, so do I now boast and glory in the determined, and the zealous, although, I fear, the too inefficient part my abilities will enable me to take against him. It will not be supposed that I could pass from sentiments so much connected with natural attachments, and surely so congenial with the natural bent of every man's mind, to others so violently opposed, so much at war with my private wishes and affections, either without the compulsion of some powerful principle, or without backwardness, regret, and pain. Yes, Sir, I felt strongly the allurements of my first prejudices; my eyes were open to all the afflicting consequences of renouncing them. If I have any reproach to fear, it is for clinging to them, too fondly, and too long. I contended with my reason, I yielded, with hesitation and reluctance, to the conviction of my judgment, and the call of my duty. But I shall for ever account it the peculiar blessing, as I deem it perhaps, the single honour of my life, that the examples I had beside me, that my association with pure and intrepid virtue, enabled me to triumph over passion, to reject the seduction even of nature, and to embrace my duty. Sir, those who best know my secret thoughts, and all that passed within my breast on that occasion, can best say whether the victory was easy. Sir, it is not, God knows, the only sacrifice I have made to these duties; but it is the only one I have ever felt—It was the severest struggle of my life; by what steps I passed from one opinion to another, and what was the progress of my mind, from the partiality of gratitude, affection and private attachment, to the sentiments I now entertain, and the detestation in which I now hold the conduct of Mr. Hastings, I shall not interrupt the business of this day by reciting; and it is indeed the less necessary, as I understand I shall have an opportunity of doing so, in another place, and in a manner still more solemn. For that day, though not impatient, I am prepared, and I have only now to entreat pardon of the Committee, for so long a deviation from the proper objects of your present attention.

The last of these topics in sir Elijah Impey's defence, which I shall think it necessary to mention, is another testimony which he has been happy enough to procure in his favour—I mean that of sir John Clavering, colonel Monson, and Mr. Francis. I own, Sir, I should be little disposed to dispute the authority of these testimonies, on any grounds of general character and judgment, and I do not think I could support a protest against their testimony, on any allegation of partiality either towards sir Elijah Impey, or Mr. Hastings, who is the other party in this business. Yet, if the circumstances relied on by sir Elijah Impey did, really, afford the testimony he claims, I should be at no loss for a sufficient ground to reject it, not merely with discredit, but with every mark of scorn and contempt: for it would be so directly opposed to every other declaration they have uniformly made on the subject, both before and since, in their official and in their private characters, on the most solemn and on the most confidential occasions, the contradiction with themselves would be demonstrative of so much falsehood, combined with such extreme folly, that no credit could be given to any opinion, or to any declaration of men so little to be relied on, either in point of sincerity, honour, or judgment. It is not my purpose to engage in this argument at present, which I am sure the Committee does not think even sir Elijah Impey, himself, was serious in using for the purpose he professed, namely, as affording, really a testimony in his favour; and which, if I had not easily perceived another serious purpose, that appeared to me analogous to the character of several other parts of the defence, I should have imagined to have been introduced for the purpose only of enlivening the debate with a little agreeable raillery: I say, Sir, I shall not trouble the Committee with resuming an argument, which I think thoroughly exhausted, which has already engaged more than one whole day in debate, and which, although unfit to delay for a moment this proceeding, to which I think it almost wholly foreign, would unquestionably, if I did it justice, occupy alone all the time and all the attention I can presume to claim to day. I shall rely therefore, with entire confidence, on the discussion which has already taken place on this subject, and the unanswerable reply which has been made to this accusatory part of sir Elijah Impey's defence, by the honourable person

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at whom it was principally levelled; dismissing all apprehension that the Committee should consider, as a favourable testimony, a transaction which, to every rational and candid mind, conveys the condemnation of sir Elijah Impey in the opinions of those gentlemen, in a more forcible and less questionable way than the most positive declaration they ever made, or could make, in words, on the subject. You have it in direct evidence before you, and I challenge every friend of sir Elijah Impey to suggest any other possible or conceivable account of the transaction, that the motive of these gentlemen in that proceeding was a deliberate, fixed, and I think, rational opinion of danger to themselves, from the passion, the partiality, the injustice, and the violence of the Judges on this subject, increased and confirmed by a knowledge of the weakness of their own situation, and their inability to resist the close confederacy and league between Mr. Hastings and the Chief Justice. There are a few words in the evidence delivered to this Committee by the hon. member who is principally concerned in this discussion and who spoke undoubtedly to a point in which it was impossible he should be mistaken, namely, the motives that governed an action of his own, which apply so conclusively, and appear to me to make so completely an end of all doubt or altercation on the subject, that I must trouble the Committee with reading them from your minutes. Mr. Francis was asked, "Whether he had any other reasons besides those expressed in the minutes for moving to burn the petition of Nundcomar." To which question he answered —"Undoubtedly I had. My secret predominant motive for proposing to destroy the original paper produced by general Clavering, was to save him and him alone from the danger to which he had exposed himself by that rash inconsiderate action; yet the step I took was not immediately taken on my own suggestion. As soon as Mr. Hastings proposed that a copy of the paper should be sent to the Judges, colonel Monson started at it, and desired me to go with him to another room.—He then said, 'I suppose you see what the Gover-'nor means. If the Judges get possession 'of the paper, Clavering may be ruined by 'it.' My answer was, 'Why what can 'they do to him?' To that he replied, 'I 'know not what they can do; but since they 'have dipped their hands in blood, what is 'there they will not do?' He then desired me to move that the original paper should be destroyed by the hands of the common hangman. This short conversation passed very nearly, I firmly believe, if not precisely, in the terms in which I have related it." Is it possible to adduce a stronger testimony to the leading and the most material points in my charge than a proceeding of which these were the motives: and without claiming even such a testimony as conclusive evidence of the thing itself; let me ask, if it be possible to draw from men a more unquestionable declaration at least of their own opinions, than this transaction furnishes, of the guilt which I impeach? Here, Sir, I shall leave this point, and abstain from any farther answer to the professed and ostensible argument on the subject. But I cannot refrain from saying a word or two to what, I conceive, was the real purpose of this topic.

I consider this as another example of that dexterity and ability, which I have already so much commended in this defence. Under colour of claiming the testimony of these gentlemen, sir Elijah Impey flattered himself that he might, first, divert the attention of the Committee, and mislead the discussion from the main points and the merits of his cause, to something collateral, and in which he had little concern. He, next, flattered himself with the hope of conciliating his audience by presenting to them an object which he thought would not be unwelcome. I mean an opportunity of imputing something questionable, or charging some contradiction, inconsistency, or other impropriety in the conduct of these gentlemen, and, more particularly, in that of my hon. friend (Mr. Francis) who was one of them. He well knew; I am sorry, Sir, I grieve to say he knew; and I grieve for it, not on account of its influence in this cause, nor, God knows, on account of its influence on the honour or happiness of my friend, which are far beyond the reach of such shafts; but I lament it from a deep and sincere concern for the credit and reputation of this House, of this country, and of its government. He knew, Sir, I say, that he could not better flatter their passions, nor offer a surer bait; that he could not bribe them higher, to acquit him, to forget, or even to justify the blackest and most atrocious crimes, than by starting for their pursuit and pastime some shadow of blame, some irregularity, or something which should require explanation in the conduct

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of my hon. friend—God forbid, I should degrade the high deserts of that gentleman by thinking any general defence of his conduct necessary. It is not my purpose thus to insult his merits. But, I own, I never reflect on this subject without finding a sentiment on my lips which I do not choose, even at the risk of yielding to sir Elijah Impey in dexterity and in the arts of conciliation to suppress. I would do much, Sir, at this time, and in a cause in which I am not ashamed to own it, to court the favour of this assembly and of power, but I will not even in these circumstances refrain from saying, that the disposition of this House, and of those, who have much weight in this place and much authority in this country, towards the hon. gentleman I have alluded to, does no credit to the House, to Government or to any individual to whom the observation can apply. It but ill evinces any just or sound view of the principles on which public men are to be countenanced and supported, to see every consideration which should give splendour to a character, which should excite admiration, command applause, honour, and reward, which should draw the grateful thanks, and bind the hearts of his country and mankind, all yield and fall before the most unfounded, the most petty and capricious prejudices, prejudices the most entirely personal, and the least connected with any manly rational, or honourable estimate of character, that ever disgraced the wayward choice or antipathies even of children. Sir, I do not hope to correct the vice I am lamenting; but I have a right to speak my mind of it, and inconsiderable as I am, I know that the justice of this rebuke will give it weight. Another cause for my concern at this disposition of the House towards my hon. friend is, that it is a heavy discouragement to the hopes of reform and of benefit to India, that we should yet be so far removed from the sound and efficient principle of that reform, which I have endeavoured to show on another occasion, consists above all in a just discrimination between merit and misconduct, and in a steady distribution at home, of honour and reward to those who have done their duty abroad, as of disgrace and punishment to the disobedience and crimes of others. If the members of this House be indeed so little read in their duties, or be prepared to sacrifice their most sacred obligations, to partialities, which although still, I fear, at the bottom of their hearts, are such as they are justly ashamed to avow, all I can say is, that for one, I am determined, here, in the very seat and centre of what I think this criminal disposition, to withdraw myself at least from all suspicion of partaking in its guilt.—In delivering my opinion of my hon. friend, I am not so madly vain as to think it can add any thing to his honours; it is not for him, Sir, it is to do myself honour that I say here what I have often said elsewhere—that, of all the great and considerable men which this country possesses, there is not one in the empire, who has a claim so much beyond all question, who can show a title so thoroughly authenticated, as this gentleman, to the admiration, the thanks, the reward, the love of his country, and of the world. If I am asked for proof—I say the book of his life is open before you—It has been read, it has been examined in every line, by the diligent inquisition, the searching eye of malice and envy—Has a single blot been found? Is there one page, which has not been traced by virtue and by wisdom? Virtue, Sir, not of the cold and neutral quality, which is contented to avoid reproach by shrinking from action, and is the best ally of vice, but virtue, fervent, full of ardour, of energy, of effect—Wisdom, Sir, not the mere flash of genius and of talents, though these are not wanting, but wisdom informed, deliberate, and profound. I know, Sir, the warmth imputed to, nay, possessed by that character. It is a warmth which does but burnish all his other virtues—His heart is warm, his judgment cool; and the latter of these features none will deny, except those who have not examined, or who wish to disbelieve it. Here, Sir, I shall quit the claim of sir Elijah Impey, to the testimony of this hon. gentleman, and of his colleagues, with all other opinions of other men, and shall proceed to lay this case before the members of this Committee, themselves, and submit it to their own judgments.

We are now, Sir, arrived at the hour of trial, in which no interval is left between allegation and proof; when assertions lose even the short advantage of temporary credit or suspense; and must present themselves instantly to that ordeal in which truth alone can survive. Sir, in these circumstances, with my adversary prepared to combat, and with your judgment to chastise me on the spot, I have yet no scruple nor any hesitation in affirming, that the transaction which you are about to contemplate, is, of all those which have

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blackened the English name in Asia, beyond all comparison the most atrocious, the most disgraceful to the character, the most degrading to the wisdom of this country, and is that which calls the loudest on our justice for correction and atonement. From the time on which I have had an opportunity of considering and fixing my opinion of the true nature and complexion of this action, I do solemnly declare, that of all the enormities I have ever heard of in the tyranny of man over man, of all the desperate or wanton exploits, either recorded in the history of human crimes, or conceived in the most extravagant and the wildest flight of imaginary and invented guilt, this one detestable act has always appeared to me to involve within its single self the greatest variety, the greatest complication, the most lofty accumulation of guilt, to stand the highest in the scale of offences, and to claim an undisputed pre-eminence in human crimes. I know, Sir, all the responsibility with which I now load myself in this heavy charge, yet I am not only confident of leaving this opinion with the Committee before I conclude, but I cannot even now persuade myself, that it has not been already adopted, even on the imperfect view of this transaction which has as yet reached your eye, and which presents but a small portion, a feeble and indistinct impression of the subject. It is my duty to day to fill up this sketch, to unfold the latent or half-perceived points of criminality, and to justify not only my own proposition: but, as I have said before, what I cannot but conceive to be already the general, though perhaps as yet, the unstudied opinion of the House itself. The difficulty, which one should suppose the greatest in this case, should be, not that of obtaining your final assent, but prevailing on you to suspend for a time those feelings, and that judgment, which the first blush of this case cannot fail of suggesting to just and virtuous minds; to deliberate where intuitive justice, as it were, calls out for sudden and instant decision; and to allow me time and cool attention sufficient to establish, by the slow course of argument and analysis, that of which our nature rejects all doubt. No opinion, however, which is right in itself, can suffer by examination; and although I may, indeed, reasonably fear that the manner in which I shall be capable of treating it, may blunt the edge of your feelings, and damp the flame which the subject itself must have kindled; yet I have this consolation, that, however uncreditable to myself, and however irksome and painful to you, the discussion is, I fear, likely to prove in my hands, yet, in the end, the matter itself is of so active and animating a nature, as to rouse again the fire I may have extinguished, and secure that triumph to the truth of my proposition itself, which its advocate would claim in vain—

Sir, the order I would observe is this—

I propose, first, to relate some of the principal facts in the cause. I shall then take the liberty of extracting from this relation the points which it furnishes for your consideration, together with such grounds and arguments as may establish the conclusions on which I shall support my motion for an impeachment.

The Committee will, naturally, first expect to be made a little acquainted with the station, circumstances, and character of him who was the unhappy victim in this transaction.

The Maha Rajah Nundcomar was a Hindoo native of Bengal, and was born at Moorshedabad. He was a Bramin, and of the highest cast of that order, being, indeed, as I understand, considered at the time of his death, as the chief or head of that body. When I have said he was a Bramin, I have said he was of the highest rank known in the society in which he lived, and of a rank the eminence of which we can form but a feeble idea of here, from any condition we are accustomed to respect in Europe; because, in addition to civil distinctions of the highest nature, the natives of India attach to the character of Bramin a religious reverence, the degree of which can, perhaps, only be conceived by those who have had occasion to know how much stronger on the minds of Hindoos are all religious impressions, as well as how much more intimately these are interwoven with all their civil opinions, and ordinary concerns and habits, than can be well imagined in these countries. Independent of this title to consideration, he was beyond dispute, the most eminent Hindoo with whom we had any acquaintance or connexion in Bengal, on account of his wealth, the high stations he had filled, his acknowledged superiority of abilities, and, in a word, the great influence, and the sway he had possessed in all the affairs of that kingdom. There was, indeed, but one man below the nabob himself, whether Gentoo or Mahomedan, who

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could be put in any degree of competition with him, for rank and consequence. This was Mahomed Reza Cawn, who had also held the first employments in the state, who was considered, and who really was, his rival and competitor in the intrigues and politics of the nabob's court. These men had long headed two principal and powerful factions in Bengal, and each had had his day of triumph and depression; each in his turn had been reverenced and respected in the fulness of his fortune; and each had been traduced and vilified in its wane. It happened, at a particular period, to suit the views, or the passions, of a prevailing party in the Court of Directors, to ruin Mahomed Reza Cawn, and to remove him from the administration of the Nabob's affairs which he then held. They judged it proper to use his rival Nundcomar in this service, who was thought peculiarly qualified for the office, by his ambition, his activity, his abilities, his acquaintance with business, but above all the rest, by his competition with Mahomed Reza Cawn, and the personal animosity between these two men. They directed, accordingly, their government in Bengal to accomplish this object, and to employ this instrument. The commission was in a special manner entrusted to Mr. Hastings, who was president of their council—the Directors accompanied these orders with observations on the character for intrigue, and on the disaffection towards the English authority in Bengal, commonly ascribed to Nundcomar; and, while they directed their servants to employ his talents and his passions in carrying a favourite point, they cautioned them against placing too implicit confidence, or bestowing too much actual power on this person; instructing them, however, positively, so far as should be consistent with this caution, to reward the services of Nundcomar, by the improvement of his fortune and the gratification of any views not dangerous to their own affairs. Thus instructed, Mr. Hastings undertook this commission; and Nundcomar was actually employed under him, several years, in this most confidential and important business, searching for, and supplying the Council with proofs of malversation in the ministry of Mahomed Reza Cawn. To this service, he was stimulated by every inducement which either interest, or passion, could suggest. His resentments and his ambition were at once gratified by the flattering prospect presented to them, of erecting his own fortunes on the downfal of a rival. There can be little doubt of his having exerted all his abilities and all his activity in the pursuit. His situation too was rendered such as should enable him to employ his own resources with effect; and Mr. Hastings invested him with all the power of official authority, and with all the influence belonging to a show of favour and protection from the British government. It was on this occasion, and, according to the profession of Mr. Hastings, it was for this purpose, that the arrangement took place in the settlement of the young Nabob's government, of which we have already heard so much. The Munny Begum, who is not altogether a stranger in this place, and concerning some of the probable motives for whose elevation, the House may, perhaps, in the course of its inquiries, have formed some conjectures, was appointed to the guardianship of the present Nabob, Mobarruk ul Dowla, during his minority. Rajah Goordass, the son of Nundcomar, was appointed Dum of the Household, or, in other words, prime minister. It was acknowledged, however, that so far as regarded his own personal qualifications, Rajah Goordass was totally inadequate in point of abilities, and totally unfit, in character and habits, for such a station. But it was contended that the incapacity and deficiencies of the son would be supplied by the talents and activity of the father, whose paternal authority and influence, it was said, would enable him to employ these qualities usefully in the service of the Nabob and the Company. These were the reasons, or, rather, this was the apology given, in substance, by Mr. Hastings for the nomination of Rajah Goordass to this office; and it was clearly understood, and indeed expressed in the minute of Mr. Hastings on that occasion, that Rajah Goordass should possess only the nominal appointment while Nundcomar was to be considered as the real and effective minister in the Nabob's court. In these circumstances, with these inducements to animate, and with these means to enable him, Nundcomar entered on the prosecution of Mahomed Reza Cawn, under the orders of the Company, and under the superintendence of Mr. Hastings. The event, however, did not answer the expectations naturally formed by the Court of Directors on this occasion. The prosecution totally failed, and Mr. Hastings and Nundcomar, reciprocally, laid

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the disappointment to the account of each other.

The connexion of this narrative with the business of the day, the Committee will hereafter see more distinctly; and, in the mean while, it will serve to show the eminent station which, even with our concurrence, Nundcomar had filled in that country, and the claims, not only for protection, but for distinction and reward, which his confidential participation in some of our most favourite schemes had given him. It will also furnish an observation or two on the general character of this person, which has always been, more or less, mixed in the discussion of his subsequent fate, although incapable, in sound reasoning, of affecting in any degree, the merits of that question.

I must begin by remarking, that so far as we have gone at least, there is nothing in the conduct of Nundcomar, which one should have thought, sir Elijah Impey, of all men, would have been disposed to rely on, either as marking his character with infamy, or as justifying a capital and ignominious punishment. For sir Elijah Impey will find it difficult to distinguish so nicely between the kingdom of Bengal, and the province of Oude; between the conduct of Nundcomar in 1772, and his own in 1781; between the information procured by Nundcomar against Mahomed Reza Cawn, and the affidavits collected by himself against the Begums; as to condemn the one to a gibbet, and deem the other meritorious and worthy of reward. By what logic, or by what maxims of English law, will he prove that an action, which was infamous and capital in an Indian politician against a rival statesman, was venial or praise-worthy, in an English judge against the royal and aged victims of his agency? With what grace or impartiality could he reject the plea of humanity, as the motive of Nundcomar, if he should have boasted, like sir Elijah Impey, of sympathy, compassion, and tenderness of heart, as his inducement for assisting his friend Mr. Hastings, in his distress, by enabling him to obey the orders, and answer the expectations of his angry and impatient masters, the Court of Directors? What other distinction will he find favourable to himself in this parallel, unless it be in the superior zeal and happier success of his own labours, which dispatched the Begums in a few weeks, and by the active diligence of a few days, while the lukewarmness of Nundcomar, his want of dexterity or possibly his greater scruples between good and bad evidence, were not able to accomplish the destruction of his own rival in three years? With regard to the general character of this person, if we are disposed to allow to him the same measure of justice with other men, we shall not admit as conclusive, without distinction or inquiry, every surmise and every allegation, which can be raked out of the party debates, of his public and private enemies. Nundcomar passed a long life in all the action of a period, full of revolutions and events, in the most intriguing country in the world. The events, in which he was always a conspicuous actor, were productive of more important consequences, both to individuals, and to the state, and as they involved deeper interests, so they engaged more warmly the passions of the parties, than any the most furious dissentions we can witness here, will ever exemplify. Nundcomar was incontestibly, in his heart, the foe of the English interests in India; and we must, therefore, receive the report of his character from those to whom he was obnoxious. It is, nevertheless, worthy of remark, that although he was seven years under restraint, and, during the whole of that time, was dispossessed of all authority by his successful rival and competitor Mahomed Reza Cawn, who was invested with the same office which he had lost, and held, therefore, in his hands the means of tracing and detecting the irregularities of his administration; yet I cannot find that any charge of malversation was ever substantiated against him. He expressly affirms the contrary himself, and boasts of it in the face of his enemy, Mr. Hastings, whom he was accusing and endeavouring to ruin at the time; and he asserts it, so far as I am able to discover, without contradiction. His words are: "I have now been ten years out of employment: Mahomed Reza Khaun ardently wished, during the whole time of his ministry, to discover some fault of mine in the settling the business of the country, or fraud, or delays in the method of transacting it; as nothing of that kind had been committed by me, he was able to produce nothing. Whoever occupies a great post, as well as faithful adherents, undoubtedly meets with discontented and turbulent men. The utmost search which Mahomed Reza Khaun could make, could not produce a single man who would lay his complaint

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against me." I am neither prepared, nor can it any way be required of me, to defend the whole tenour of Nundcomar's life, or to take charge of his general fame, with which, I think, I have no concern; but I have been induced to make these observations by perceiving a strong disposition in all those who have had the task of defending the desperate action which I arraign to-day, to turn the inquiry from this specific accusation of sir Elijah Impey to all the loose and general aspersions, whether proved or conjectured, whether calumny or truth, on the political career of Nundcomar. I think it due then, to what I deem the injured memory of this injured man, to demand, as a claim of right, that we should restrict his bad and his obnoxious qualities to those alone which are, in some degree, authenticated against him, namely, a great deal of ambition, a spirit of intrigue, and a settled detestation of the English usurpation over the native government of his country. I do not think I can speak more pertinently to this point, than by referring to the opinion delivered of it by Mr. Hastings, in his minute of the 28th July, 1772, on the appointment of Rajah Goordass to the office of Duan at Moorshedabad. That measure had been opposed by some members of the committee of council, who collected from the Company's records all that could be found to impeach the character of Nundcomar, which they annexed to a minute containing their objections to the proposed appointment of his son. In answer to these objections, and in support of his own proposition, Mr. Hastings entered a minute in the proceedings of the Committee of Circuit at Cossimbuzar on the 28th of July, and which will be found in the Bengal Narrative, p. 250—I must trouble the Committee by reading the following passage from that minute:

"The President does not take upon him to vindicate the moral character of Nundcomar; his sentiments of this man's former political conduct are not unknown to the Court of Directors, who, he is persuaded, will be more inclined to attribute his present countenance of him to motives of zeal and fidelity to the service, in repugnance, perhaps to his own inclinations, than to any predilection in his favour. He is very well acquainted with most of the facts alluded to in the minute of the majority, having been a principal instrument in detecting them; nevertheless he thinks it but justice to make a distinction between the violation of a trust, and an offence committed against our Government, by a man who owed it no allegiance, nor was indebted to it for protection; but, on the contrary, was the actual servant and minister of a master, whose interest naturally suggested that kind of policy, which sought by foreign aids, and the diminution of the power of the Company to raise his own consequence, and to re-establish his authority. He has never been charged with any instance of infidelity to the Nabob Meer Jaffier, the constant tenour of whose politics, from his first accession to the Nizamut till his death, corresponded in all points so exactly with the artifices which were detected in his minister, that they may be as fairly ascribed to the one as to the other; their immediate object was beyond question the aggrandizement of the former, though the latter had ultimately an equal interest in their success. The opinion which the Nabob himself entertained of the services and of the fidelity of Nundcomar, evidently appeared in the distinguished marks which he continued to show him of his favour and confidence to the latest hour of his life. —His conduct in the succeeding administration appears not only to have been dictated by the same principles; but, if we may be allowed to speak favourably of any measures which opposed the views of our own government and aimed at the support of an adverse interest, surely it was not only not culpable, but even praise-worthy. He endeavoured, as appears by the extracts before us, to give consequence to his master, and to pave the way to his independence by obtaining a firmaun from the King for his appointment to the Subaship; and he opposed the promotion of Mahomed Reza Cawn, because he looked upon it as a supercession of the rights and authority of the Nabob. He is now an absolute dependent and subject of the Company, on whose favour he must rest all his hopes of future advancement."

The Committee will, no doubt, agree with Mr. Hastings in this view of Nundcomar's character, and in thinking that, however properly the qualities ascribed to him might render him an object of jealousy and caution to the English Government, they did not stain him with any imputation naturally dishonourable or infamous. We must recollect the irresistible prevalence

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of English authority in Bengal, and the total annihilation of all power in the native government, or of its friends, to resist the encroachments of the Company, or to accomplish, by open force, the most legitimate or laudable objects of their own policy. The condition of the native powers was that of children, who, having no strength, are sure to surpass even manhood in those venial, if not commendable arts, by which alone their little desires can be gratified. Cunning has been called the natural arm of weakness. This is said of individuals. Political intrigue is the cunning of statesmen; and is, therefore, the natural arm of political weakness. We have reduced that people to a state of imbecility and humiliation, in which patriotism itself may seem degraded by the only field we have left for it to act in. In those humbled nations we have driven not only ambition, avarice, and all the private passions, but even the love of their country, public spirit, and all the generous virtues to the use of the meanest instruments, and a misalliance with the basest qualities. We are happy enough in this favoured island, to live under a government, in which the national business may be conducted, and in which we may pursue the fair objects of an honourable ambition, by the open and manly exercise of public virtues, by the display of eminent talents and popular endowments. Yet there are not wanting, even here, those who can tell, whether an application to secret practices, and to mysterious intrigue, is quite without example in the politics even of British statesmen—Be that as it may, if intrigue be a deadly offence in Bengal, the Supreme Court need never want employment, and our judges may co-operate with our governors, by taking off every man of an active and aspiring character, and every one who has a spark either of private ambition or public virtue, in that country. I am not now, Sir, the panegyrist, nor am I even bound to become the apologist of these qualities which have been reproached to Nundcomar; and which, whether he possessed them or not, or whatever be the degree of moral guilt belonging to them, could not, on any grounds, justify the particular proceeding which is the subject of our consideration to-day. The same remark will apply to the other branch of this accusation against him, which was, probably, considered as the most heinous of the two, I mean his disaffection to our government. Mr. Hastings styles the fidelity of Nundcomar to his native master, and the zeal he displayed in his attempts to aggrandize the Nabob, and to establish an authority in him, which should be independent, at least in its title, if it could not be so in its exercise, of the East India Company, Mr. Hastings, I say, styles this conduct "not only not culpable, but even praise-worthy," and I wish it was in my power, and in the power of this House, and of all the just and generous part of this nation, to agree as cordially with Mr. Hastings in every other proposition as in this. Admitting, however, that this quality in Nundcomar might render him properly an object of jealousy to those who were entrusted with the immediate interests of the Company, and that it might suggest to them a justifiable desire to remove him, as a dangerous person, from all influence in the affairs of those provinces; admitting that the very objections relied on by the colleagues of Mr. Hastings, in opposing the virtual appointment of an enemy to a situation of trust and power, might be sound and rational, which I am far from denying, the question, however, still remains, whether it was any part of the duty committed to the Supreme Court, or was consonant with the spirit and purposes of that institution, to become the instruments of the East India Company, or of their servants, in removing, or, as in this case, in crushing and destroying individuals, however justly obnoxious; whether the Supreme Court of Judicature, was intended by parliament as a new and improved engine of state policy in the hands of the Governor-general and Council; whether the Judges were sent out as gaolers and executioners in the proscriptions of the government; and whether the laws of England were communicated to Bengal, only as traps and pitfalls for its most eminent and enterprising citizens. I will venture to affirm, that every circumstance in the general and previous history of Nundcomar's life, so far from justifying, or, in the slightest degree, extenuating the enormity which followed, did, on the contrary, render him in a peculiar manner an object of protection to the Judges, and must have clearly presented him as such in the eyes of every man who had a sound view of the spirit in which this institution was founded, or even the most common and universal notions of the judicial character and function in every part of the world. Yet, Sir, insufficient as the grounds are, which I have hitherto stated for the persecution

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and fate of Nundcomar in the hands of this Court, I should disgrace the cause I have undertaken, by ascribing to that prosecution, and its issue, motives, comparatively so laudable, even as the scandalous inducements, which, in answer to these irrelevant topics, I have been supposing. No, Sir, it was not the disapprobation of his moral defects; it was not jealousy of his political enmity; it was not an anxious concern for the claims and interests of the Company, to which this transaction can be traced. To men who, like you, Sir, would measure the conduct of others by their own just and honourable minds, this view of it, I grant, must seem to place the action we are considering high enough in the scale of human crimes; but when we have ascended to that pinnacle of guilt at which alone a true and just prospect of this transaction can be obtained, we shall look down on the inferior point which made us giddy before, as the humbler flight of a meaner and less aspiring genius. For the true motive, for the key to this, otherwise, inexplicable action, we must look a little forward; and I come now to that period which I consider as the date and origin of the transaction before you.

The minute of Mr. Hastings, which I have just read, is dated in July 1772, and it was about that time that the prosecution of Mahomed Reza Cawn commenced. Early in the year 1774, Mr. Hastings, after at least a slow and ineffective, if not a languid, investigation, finally absolved Mahomed Reza Cawn; and in his letter to the Directors, intimating this event, he loaded Nundcomar not only with the failure of the prosecution, and thereby with the disappointment of the Directors' wishes on that subject, but with every other species of imputation; and I observe on this letter, in passing, that it affords evidence of declared enmity between Mr. Hastings and Nundcomar, at that period of time, namely, in the month of March 1774. It was soon afterwards, that is to say, in October of the same year, that the members of the new Council General, and the Judges of the Supreme Court of Judicature arrived at Calcutta. The early part which the majority of that Council took in opposition to Mr. Hastings, and in the scrutiny and condemnation of his preceding administration, together with the hopes which were raised of protection in an independent and upright tribunal, bearing such a commission, and armed with such powers, as the Supreme Court gave a transient spring to the subdued spirit of that country, gave voice to their complaints, and a degree of action to all their discontents. Nundcomar now ventured to quit that path of intrigue in which he had been so long reproached with wandering, and, (as if it were to prove that a more open and generous warfare suited his character and genius, when unrepressed by necessity,) he now, at length, stimulated by private wrongs, urged by fear, and seeking safety in resistance, striking his foe, in order to defend himself, and finding courage in despair, took the lead in the first open accusation ever offered by a native against an Englishman in power. Let the Committee conceive, if they can, the impression, the sensation of surprise, of solicitous and anxious speculation and suspense, which such an event must have raised throughout the settlement; but let them, above all, represent to themselves the native inhabitants, from the prince to the ryot, contemplating, as it were, aloof, this conflict, watching every blow, seconding with secret prayers every aim of their native champion, and waiting with fervent, but with doubtful and timid hope, the issue of an enterprise, on which their own fate seemed to depend as on its last thread, and by which their own determination was to be governed, either to assert, each his own cause in his turn or bend their necks again and for ever to a heavier and more galling yoke. Such was the undertaking, Sir, of Nundcomar. It was one, in the event of which, I fear, we ourselves appear to have been parties, both for advantage and honour; for we had enticed him to his ruin by the fair promises of an equal combat and impartial Judges. I am now to relate the event of this struggle.

On the 11th of March 1775, Nundcomar delivered into council a formal, written, and specific charge against Mr. Hastings, comprising a variety of separate articles of accusation. I will not trouble the Committee with reading the whole of that paper, with which we cannot be unacquainted, as it has already undergone investigation, and amongst other materials, makes part of the accusation instituted by this House against the Governor-general. Mr. Hastings, in his own cause, deemed it of too mean a nature to be admitted into the Board at Calcutta; but it has been thought by the House of Commons, of dignity enough to occupy the attention of the High Court of Parliament, and of in-

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comparably the most august tribunal existing on the globe. Some few passages of this paper I must refer to, as pointing to matter which I think worthy of consideration, and in order to show the true situation in which this accusation placed both the person accused and his accuser. What I shall first read, contains the account given by Nundcomar of his own motives for bringing his charges against Mr. Hastings, namely, a declaration and menace of hostility from the Governor, the communication of the Governor with the personal enemies of Nundcomar, and the consequent apprehensions for his own safety, which drove him to attack Mr. Hastings in self-defence. Nundcomar says, then, in the paper I have alluded to,

"When general Clavering, and colonel Monson, and Mr. Francis, arrived from England, appointed counsellors for the government of this country, the president, Mr. Hastings, introduced many of the natives, who had employment in the country, to those gentlemen, and likewise gave permission to many others to pay their respects to them. At the expiration of a week after their arrival, I begged of the Governor that he would introduce me. The Governor answered, that he was well assured I had a friend, who was his enemy, that acted as messenger from me to those gentlemen."—"You have contracted," said he, "a friendship with my enemy; procure an interview by his means;" and he concluded with this menace, "I shall pursue what is for my own advantage, but in that your hurt is included—look to it." I replied; with begging that he would not give credit to the slanders of Mr. Graham against me, who was my enemy. The affair remained for some time in this state: afterwards, the Governor sent Mr. Elliot with me, to introduce me to general Clavering, colonel Monson, and Mr. Francis. I continued after this to pay my respects from time to time, as usual, to the Governor, and sometimes to the other three gentlemen. On Tuesday the 29th of Pooss, I waited upon the Governor, and found Mr. Graham and the Governor in conversation together. When Mr. Graham had taken his leave, the Governor called me to him, and said, "I am certain that you are acting the part of an enemy towards me; I shall hereafter be your enemy here, and shall not cease to be such even in Europe. You must not come near me from this day; go, and do me the utmost evil in your power." I begged of him coolly and impartially to consider the justice of this declaration; and told him that, till he had, I should take care not to visit him. I left him upon this, conceiving that what he had said proceeded from a gust of passion, and that he would not seriously determine upon effecting my ruin. Since this, Juggut Chund, whom I have educated from a child, and patronized, who even now enjoys the office of Naib to my son, Rajah Goordass, with the most abandoned undutifulness, has been seeking to injure myself and Rajah Goordass: he is now come to Calcutta, without order of council, and contrary to Rajah Goordass's desire; and he has never yet even been to visit me. This person is admitted to hold council with the Governor: and Mohun Pershaud, whose villainy and lying intrigues are known to both the English gentlemen and the natives throughout this city, who is my inveterate enemy, and whom the Governor formerly turned out of his house, and forbid him to appear there again, is now recalled into his presence, is presented with Paan by him, and assured of his protection. Mohun Pershaud is admitted by the Governor to private conferences, both in town and at his gardens, and likewise frequently comes to Juggut Chund's house, and holds consultations with him. What title, from rank or fidelity, have these to such intimate connexion with the Governor? What other title have they, than their enmity and malevolence to me? I have no power in this country; Mr. Hastings is the superior of all. The goodness of God is the only defence I have against the declared hatred of such an enemy. I esteem my honour dearer than my life; and I am not insensible of the injury my character may suffer from the discoveries I am about to make, but greater disgrace attends my silence, and I am left without a choice: I shall, therefore, request your attention to the following account of some few parts of the Governor, Mr. Hastings's, conduct in the course of his government."

The first thing to be observed here, is Nundcomar's assertion, that Mr. Hastings had expressed in October or November, 1774, an opinion that Nundcomar was connected with his enemies, and was employed in some measures personally adverse to him; that Mr. Hastings had on that occasion dismissed Nundcomar from his presence, forbid him his house, and menaced him with revenge: next, the Committee will remark, that Nundcomar asserts

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as a farther ground for his alarm, that a person named Juggut Chund, and another, named Mohun Pershaud, both notoriously enemies of Nundcomar, had been lately received into the company of Mr. Hastings, and admitted to private conference and communication with him.

It is proper to inform the Committee, that both these persons became, afterwards, active in the prosecution of Nundcomar, and that Mohun Pershaud was himself the prosecutor. I allow, that the bare assertion of Nundcomar cannot establish these facts in the way of evidence; but it is proper to observe, that they were not made on his trial, in defence of his life; but in the month of March, some weeks previous to the commencement of any of the prosecutions against him, and were adduced on this occasion only to justify the measure he was taking, in self-defence, of laying an accusation against the Governor-general. It must be remarked also, that the facts which he mentions, of communication between Mr. Hastings and these men, and particularly the visits of Mohun Pershaud, both in town and at the Governor-general's country-house, were so capable of contradiction if they had been false; and may be supposed so much a matter of notoriety, either in the affirmative or negative, that it is not probable he should have ventured them in that place, and in the face of Mr. Hastings, without foundation. The account he gives of the menace delivered by Mr. Hastings, is also strongly confirmed, in substance, by other circumstances. We are told afterwards by Mr. Hastings, that he had in fact intelligence of a connexion between Nundcomar and Mr. Fowke, in measures hostile to himself; and in his examination before the Judges, in one of the prosecutions for conspiracy, Mr. Hastings admits what I think the substance of this story, namely, that he did dismiss Nundcomar from his House with expressions of displeasure. He does not, indeed, admit the particular words related by Nundcomar as conveying the menace of revenge, but he denies even this somewhat faintly, for the reason he assigns for believing that he did not use such expressions is only, "that it was not in his disposition." The question and answer are —"Question. Did not you say, that you would be revenged on him, and would ruin him?—Answ. I never mentioned revenge or that I would ruin him, I am clear I did not mention these words, because it is not in my disposition."

That there was in fact some ground for the alarm of Nundcomar, these circumstances do, I think, of themselves evince; but judging of the event, as we now do, it is difficult to treat any apprehensions of danger from the anger of a Governor-general, as entirely visionary. Nundcomar persists in this account of his motive for accusing Mr. Hastings, and in his examination before the Council on the charges he had delivered, he answers to the first question, namely, what he had to say in support of his charge, "I am not a man officiously to make complaints; but when I perceived my character, which is as dear to me as life, hurt by the Governor's receiving into his presence Juggut Chund and Mohun Pershaud, who are persons of low repute, and denying me admittance, I thought it incumbent upon me to write what I have," &c.

It is difficult, indeed, to imagine any motive short of fear, urgent enough to push Nundcomar, or any other native, to the extraordinary and the hazardous measure we are considering. He incensed, in the first place, the most powerful man in the state, not by a common provocation which might be capable of future accommodation, but one which brought the matter to extremity at once, by connecting his own ruin, not only with the gratification of resentment proportioned to such an offence, but also with the personal safety of his adversary. In the next place, he united against himself the whole body of the British inhabitants, by the alarming and offensive example he was setting, of informing against practices, which may be supposed not altogether singular, nor, perhaps, held so much in disrepute in Bengal as in many other places. The detestation of this act of Nundcomar's was not confined even to the English, for it affected as deeply the leading and principal persons of his own country, few of whom could rise into consideration or opulence by any other means than an agency in those corruptions and abuses of their English masters, which he was denouncing. But that which must, perhaps, have dissuaded and deterred Nundcomar the most from the measure he was taking, and that which leaves the least doubt of its having been an act of necessity, was the violence it did to the notions of good faith, and the principles of fidelity, which prevailed in that place. Every society has its own point of honour, and to disclose a bribe at Calcutta, is not only deemed more crimi-

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nal than to take one, but is held in the same abhorrence, and consigned to the same infamy, as perjury, cowardice, or any other crime, which incurs loss of honour, may be elsewhere. The sense which Nundcomar entertained of these consequences, as likely to follow from the step he took, appears very clearly in the anxiety he shows to excuse it, on the ground of necessity and of self-defence. That he did himself apprehend danger from the resentment of Mr. Hastings, and that he was urged to the desperate act of publicly accusing the Governor-general in the Supreme Council by that fear, I do not think we can entertain any doubt; and, if the extraordinary sagacity and abilities of this man are not wholly a fiction, both of his friends and enemies, it is not easy to suppose him either entirely without information in a matter affecting himself so nearly, or to have rushed into an act of desperation, either in circumstances of security, or, indeed, without strong and rational ground for apprehension.

The passage, which I have read in the letter of Nundcomar to the council, is followed by a charge against Mr. Hastings of accepting a bribe from Mahomed Reza Cawn for dropping his prosecution; by a similar charge, in the case of another native, named Rajah Shitabroy; and by some other general accusations. He then proceeds to a most specific and circumstantial charge of bribes taken by Mr. Hastings on different occasions, and this paper will deserve the consideration of the Committee.

"An ACCOUNT of Presents received by the Governor, Mr. Hastings, on account of transactions of a public nature.

B. Y. 1179. Assen 12. Given by me to Mr. Hastings at Calcutta, for procuring Rajah Goordass's appointment to the Niabut, and causing Munny Begum to be made the superior of the family, by means of Jagganaut and Baul Kishen, consumahs of the Governor, Mr. Hastings; together with Cytun Naut, Nurr Sing and Sedanund, 3 bags of gold mohurs; viz.

One bag containing gold mohurs	1,471
One do. do.	1,471
One do. do.	900
And adailies 1,140 do.	570

Gold mohurs, 4,412 at 17 A. R. per mohur		75,004 0
Assen 15. Given by ditto and ditto at Calcutta, by means of Jagganaut and Baul Kishen, consumahs of Mr. Hastings, together with Sedanund and Nurr Sing aforesaid, one bag; viz.		
One bag, containing gold mohurs	1,291	
And adailies 359 do.	1,79	
Gold mohurs, 1,470, at 17 A. R. per mohur		24,998 8
Assen 26. Sent to ditto for Batta on the afore-mentioned sums, which, having been paid as Arcot, Mr. Hastings required they should be made up Sunautts, by means of Jagganaut and Baul Kishen aforesaid; viz.		
One bag, containing gold mohurs 182¼ at 17 A. R. per mohur		3,102 8
Assen 29. Sent to Mr. Hastings at Calcutta, by means of Jagganaut and Baul aforesaid, together with Shevaram; viz.		
One bag, containing A. R.		1,000 0
4 Bhadun. Given to Mr. Hastings, at Moorshedabad, by Munny Begum, upon the occasion of constituting her the superior of the family, and taking away the superiority from Babboo Begum, mother of the Nabob Mobareck ul Dowlah, who before enjoyed that rank, Rupees Sonaut		100,000 0

The Governor, Mr. Hastings, in the month Asarr 1179, went from Calcutta to Moorshedabad. He remained about three months at Cossimbuzar, and sometimes went into the Nabob's palace. After Mr. Hastings returned from Moorshedabad to Calcutta, Munny Begum said to Rajah Goordass, "Write word to Marajah Nundcomar, that it is proper and requisite to give one lack and fifty thousand rupees to the Governor, and beg of Marajah to ask the Governor, Whether it shall be sent in ready money, or by a bill of exchange?" I

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accordingly asked Mr. Hastings, who answered, "I have connexions of trade in that part of the country, let this money be paid to Nurr Sing, Cantoo's brother, who is at Cossimbuzar." — In consequence of which, I wrote to Rajah Goordass and Munny Begum, that they should delivered the money to Nurr Sing, Cantoo's brother. Munny Begum with Rajah Goordass's knowledge, in the month of Aughum, 1179, paid this money to the Governor.

4 Bhadun. Mr. Hastings, by the means of Nurr Sing aforesaid, from under the care of Chylun Ahurr, cash-keeper to the Behailah — Sonaut rupees.....150,000

——— 250,000 0

Rupees..... 354,105 0

I am, hon. Sir and Sirs, your most obedient and devoted Servant,—[The Signature of Rajah Nundcomar.]—Calcutta, the 8th March, 1775."

It must be allowed that no accusation ever surpassed that which has been just read, at least, in particularity and specification, and that none, therefore, ever afforded greater advantage to the party accused, if it were not true. Nundcomar states in these charges the particular services, for which the different presents were received.—He states, with the utmost degree of minuteness, not only the amount of each sum, but even the number of bags which contained the money, the different sorts of coin, and the number of pieces of each denomination, contained in each bag; the year, the month, and the day of the month, on which the several payments were made; and lastly, the names of all the parties concerned in these various transfers of money, both in paying and receiving it.—The precision with which the particulars of the transactions are detailed, and which denotes this accusation to result, not from vague report, or memory, but from correct documents, is of itself a strong indication of authenticity; and this presumption is much strengthened by the reference to so many persons, by name, as witnesses of the facts. Nundcomar names on this occasion no less than nine persons; viz. the Munny Begum; Rajah Goordass; Chylun Ahurr, cash-keeper to the Behailah; Jagganaut and Baul Kishen, consumahs to Mr. Hastings; Cytun Naut; Nurr Sing; Sedanund; and Sheevaram. Every one of these persons was alive and within reach of examination on the subject. Jagganaut and Baul Kishen were servants and dependents in the family of Mr. Hastings, and were in Calcutta at the time when this charge was preferred.—Two others, namely, Chytun Naut, and Sedanund, were bankers; both, as I believe, but certainly the latter, residing in Calcutta.—These Nundcomar mentioned as employed on his part, and Chytun Naut had been formerly his servant.—Nurr Sing resided at Moorshedabad, and Sheevarham at Chandernagore, but it was easy to bring them to Calcutta on an occasion of so much importance.—I have said enough to show that the form, in which this charge was produced, by referring to so many and such various persons, for so many and such specific facts, pointed the way to its own infallible detection, if false; and, while it exposed Nundcomar to the imputation of extreme folly, as well as villainy, it left Mr. Hastings subject to that of co-operating with his accuser, and becoming auxiliary and accessary to his own disgrace, if he rejected the means of defence thus furnished by his enemy.

Such, Sir, was the charge brought by Nundcomar against Mr. Hastings, and presented on the 11th of March to the Council. On the 13th of March, Nundcomar, by letter to the Board, desired to be admitted in order prove his accusation by written documents and other testimony. What was the conduct of the accused? The Committee will observe that this was a positive charge of a flagrant and disgraceful crime, no less than that of pecuniary corruption in the first member of the state, and in some of the most important acts of his government, together with that of habitual peculation, exemplified in a variety of bribes, charged to be taken on many occasions, great and small.—Let me ask what you, Sir, what any member of this Committee, or any other man, not careless of honour, would have done in this situation? I mean, accused—and innocent. Could your conduct have been any other than to deny the charge—to demand, as of right, an instant inquiry—to call on the accuser for his proof—to desire to be confronted with him—to promote, to insist on the examination of your cause, as the first satisfac-

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tion and the only possible reparation to your honour?—Would you have stood on your rank for exemption from inquiry?—Would you have been nice in the form and ceremonial of the business, and would you have been such a lover of order, as to sacrifice your reputation to the difference between a Board and the Committee of a Board? Would you, Sir, have used authority, and have stretched your powers, even beyond their constitutional limits, to obstruct the inquiry? Would you have prohibited the attendance of witnesses, and impeded, in every other way in your power, the investigation of the truth? I need not wait, Sir, for your reply; and I will boldly answer, No, not only for you, but for Mr. Hastings himself, in the situation I have mentioned, namely, accused and—innocent.—What was, in fact, the conduct of Mr. Hastings on this occasion? On the 13th of March colonel Monson moved, "That Nundcomar be called before the Board, to bring the proofs of the charge against the governor, in his letter of the 8th instant."

The minute of Mr. Hastings on this motion begins with these words: "Before the question is put, I declare that I will not suffer Nundcomar to appear before the Board as my accuser. I know what belongs to the dignity and character of the first member of this administration. I will not sit at this Board in the character of a criminal; nor do I acknowledge the members of this Board to be my judges." Mr. Hastings then proceeds to charge the members of the majority with being the real authors of this accusation, and Mr. Francis, in particular, with publishing a libel, by presenting the letter of Nundcomar to the Board. He indulges himself in invective against his accusers, and in asserting the dignity of his own station. "The chief of this administration (says he) your superior, gentlemen, appointed by the legislature itself, shall I sit at this Board to be arraigned in the presence of a wretch, whom you all know to be one of the basest of mankind? I believe I need not mention his name, but it is Nundcomar. Shall I sit to hear men, collected from the dregs of the people, give evidence, at his dictating, against my character and conduct?—I will not. You may, if you please, form yourselves into a committee for the investigation of these matters in any manner which you may think proper; but I will repeat, that I will not meet Nundcomar at the Board, nor suffer Nundcomar to be examined at the Board, nor have you a right to it; nor can it answer any other purpose, than that of villifying and insulting me, to insist upon it."

The argument used by Mr. Hastings amounts to this: that he is too high himself to be accused; and that Nundcomar is too low to accuse him.—With regard to Nundcomar we must recollect, that Mr. Hastings did not consider him as too low to be an accuser in any case except his own.—Mr. Hastings is reminded by his colleagues, that the man, whom he now villifies, had been lately employed confidentially by himself; to which Mr. Hastings answers, that Nundcomar had never enjoyed his confidence, and that he employed him in a particular service by the orders of his superiors—I grant this; but, although Mr. Hastings might indeed employ Nundcomar against Mahomed Reza Cawn, in obedience only to his instructions, yet he had no instructions to raise the son of Nundcomar to the office of minister to the Nabob, and Nundcomar himself, to the real functions and influence of that situation; nor did the Directors dictate to Mr. Hastings that exculpatory minute, or rather that panegyric on the fidelity and honourable attachment of Nundcomar to his master Jaffier Ally Cawn, which I have lately read to the Committee. Mr. Hastings did certainly, at that time, and on that occasion, deem Nundcomar neither too mean in his origin and situation to become minister to the prince of the country, nor too low in any other respect to be the accuser of a former minister of that prince; and the elevation of Nundcomar and his family in the year 1772 was so purely a voluntary act, and a measure originating with Mr. Hastings himself, that it was not only carried thro' against a strong opposition on the part of his colleagues in office, but was also directly contrary to his instructions from home, which warned him against reposing trust, or giving power to this very person, whom he placed virtually at the head of the Nabob's administration.—One of the reasons given for this measure by Mr. Hastings was, that it would give more effect to the prosecution, which Nundcomar was to carry on under him against Mahomed Reza Cawn. I do not enter into the merits of these measures in 1772, but I say they are somewhat inconsistent with the language and the argument of Mr. Hastings in 1775, when he refuses,

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in his own case, to answer to a heavy charge, or to permit its investigation, because it is preferred by Nundcomar.—One cannot help being struck with something unbecoming and unseasonable, in the application of the word wretch to another man by one, who at the very moment, and, indeed, under cover of that very phrase, is shrinking from a charge of bribery, and from inquiry into a mean offence imputed to himself. Then what shall we say to the other branch of the argument, that his rank as Governor-general exempted him from accusation or inquiry? The proposition amounts to this, if it be examined; for although he puts it, in terms, only as to the indignity of being confronted with his accuser, the Committee will easily see that whoever is not too high to be accused, cannot be too high to have the accusation inquired into; and whoever is not too high for that, must even stoop to confront his accuser, be that accuser who he may. Until the prerogative of doing no wrong be communicated to the Governor-general of Bengal, we shall not subscribe, I trust, to his exemption, either from accusation, inquiry, or even punishment. The notions entertained by Mr. Hastings of dignity are, I trust, also, peculiar to himself, and not acknowledged here—We do not know how to separate dignity from honour. We say that innocence is the first dignity—That character is dignity—That kings may confer rank, and may invest with power, but can neither grant nor resume dignity. When a man in high office is accused of a disgraceful crime, we do not say he maintains his dignity, by using his power to stifle the investigation; and if he remains an hour under imputation, without presenting himself to enquiry, and calling for trial, we say his dignity is gone, even when his rank and authority remain.

Mr. Hastings concludes this minute with an apology for its want of premeditation, a if it had been drawn from him on the sudden by something which had arisen unexpectedly at the Board that day, and he had been betrayed, by surprise, into an incautious and incorrect expression of his sentiments. The language of this minute was no doubt unpremeditated, since Mr. Hastings says so—But it was not for want of opportunity for of leisure, nor on account of the unforeseen rise of the business to which it related, that "caution and exactness" could be wanting. For the letter of Nundcomar had been delivered into Council, and read, together with the charges which it contained, in the presence of Mr. Hastings, on the 11th of March, two days previous to this minute; and, however unpremeditated the form of words used by Mr. Hastings may have been, the matter was certainly not so, for Mr. Hastings concluded, by delivering to the Board a paper, which he says expressly in the body of this unpremeditated minute, "he had brought with him, suspecting the renewal of the subject, in this day's consultation,"—and in another place he says, "I must farther inform the Board, that I have been long since acquainted with Nundcomar's intention of making this attack upon me." The indulgence, therefore, sometimes due to a start of passion, or to the first motion of wounded pride, cannot be claimed here; but the conduct of Mr. Hastings, and the resolution he followed on that occasion, must be considered as a deliberate measure; and the short fact resulting from the whole is, that Mr. Hastings, after reflecting two days on the part he should act, in this most important crisis of his life, found no better expedient, than to rail at his accuser, and suppress the inquiry into his charges.

To show the Committee, that the Council was not unanimous in the opinion expressed by Mr. Hastings concerning the dignity of his office, I must trouble you with the minute of general Clavering on this question—"I think it both for the honour of the Governor-general and for the dignity of this Board, which is wounded by a criminal accusation exhibited against the first member of it, that Rajah Nundcomar should appear before the Board, to lay before us the proofs he has of the allegations which he has exhibited against the Governor-general. Were we to refuse him, the Governor might justly reproach us with having defeated the only means by which his honour could be rescued from so reproachful an accusation. He might then say, as he has done in his minute just delivered to us, that we have refused him the proof that he might obtain of his innocence. In respect to the original papers referred to in the Ranny of Burdwan's petition, which he demanded, those papers, as I understand, were at the door, and the Ranny's Vackeel ready to deliver them. If the proofs which Nundcomar has offered to produce are judged groundless, or if the papers, which the Ranny of Burdwan's Vackeel still offers

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to produce, are not authentic vouchers of Bridjoo Kissore's account, I shall then be the first to propose the question to this Board, that the accusations brought against the Governor-general are malicious and false. For these reasons I desire that Nundcomar may be brought."

Colonel Monson says, "I think the Rajah should be called in, to show to the Board the nature of the evidence he has to produce, as the proof of his charge against the Governor-general. If these proofs should be thought sufficient, this cause may hereafter be tried in the Supreme Court. I more particularly wish that the Board may receive Nundcomar; as it will give the Governor-general an opportunity of confuting the charges brought against him." The Board resolved, by a majority of voices, "that Nundcomar be called before the Board, and the secretary is ordered to summon him accordingly;" after which colonel Monson gives in the following minute: "The Governor-general's minute, on my motion to introduce Nundcomar, contains little more than general invective, in answer to a positive charge; attempts to prove me his collateral accuser, from an information given him by a person, whom he refuses to make known; but, supposing I had seen the paper alluded to, it does not invalidate the fact contained in it. I made the motion, conceiving it was for the honour and dignity of government, that we should proceed, as far as we were justified by law, to attain as much information as might be thought necessary to pass a censure on Nundcomar, if any circumstances should appear, which might incline us to believe that Nundcomar has been guilty of a slander; and that this could be done in no way so well as in the Governor's presence."

The resolution to call in Nundcomar having now passed, and his accuser being ready to appear, Mr. Hastings said, "I declare the Council now dissolved; and I do protest against any acts of it as a Council during my absence, as illegal and unwarranted." He then quitted the Council, and Mr. Barwell followed him. The majority of the Board, however, did not admit the power claimed by the Governor-general in this instance, of dissolving the Council at his pleasure, by his single authority, contrary to the sense of a majority of members present. They came to resolutions to that effect; sir John Clavering, as senior, took the chair in the absence of the Governor, and the Council proceeded with the business. It is not my intention to inquire at present, whether the power of dissolving Councils was vested, by the constitution of that Board, in the Governor-general alone, or in a majority of members present, and it is pretty indifferent, in the present question, whether this attempt, on the part of Mr. Hastings, to prevent an inquiry into his conduct, came within the limits of his legal powers, or not; for the only inference, in which our present inquiry is concerned, arises just as strongly from the exercise of a legal power for such a purpose, as from the assumption of an illegal one. I know the opinions of able and respectable men have differed on this point in the constitution of the Board; but I do not believe there are two opinions concerning the propriety, or decency, of using that authority on this occasion, or that there exists at this moment, in any one breast, a sincere doubt concerning the motive of that proceeding. This, Sir, was not the last effort of Mr. Hastings, nor the only means he applied to in his necessity. The Council found it proper, in the course of their examination into the charges of Nundcomar, to summon two persons as witnesses; viz. Cantoo Babboo, Mr. Hasting's Banyan, and Kishen Churn Chatterjea, also a servant of Mr. Hastings. They both refused compliance with the summons, and informed the Board in writing, that Mr. Hastings had forbid their attendance, which he afterwards acknowledged at the Board—His words are, "I know that they did receive the summons sent them by Mr. Sumner, in the name of the Board; and the answers which were sent being shown me, I forbade their attendance." The pretence for this prohibition was, that the Council could not legally sit after it had been dissolved by the Governor-general; but this seems rather an insufficient reason for the interposition of a master's authority, to prevent his servants from giving the information which they possessed, to three members of the administration, whether assembled at a legal Council or in any other way. Mr. Hastings had made his protest against the legality of their proceedings, and had, therefore, by that measure, as well as by his own absence, provided, as far as depended on him, for the safety of what he conceived to be the constitution of that government, as well as for what he conceived to be the dignity of its first

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member. The attendance and the testimony of the witnesses might have promoted the investigation of truth, but it could not affect, one way or other, any constitutional question. It is, indeed, curious to observe the fallacy and the contradictions in every part of Mr. Hastings's conduct and arguments in this emergency. He first objects to the inquiry into these charges, because they were in reality the charges of his colleagues, and not of Nundcomar. Of this he offers no proof, and refuses, on requisition, to name any authority for the assertion. — On this ground, however, he objects to the examination of his conduct in Council, because the members of it were to be considered as parties, and therefore unfit to be his judges. The members of council, he well knew, did never propose to sit on him as judges, and they declared so explicitly and repeatedly, but to inquire whether there was ground in the accusation made against him, sufficient to deserve the investigation of other judges. Their main object was to furnish their superiors at home with information, which it surely imported them to acquire; and Mr. Hastings knew distinctly, that, in this branch of their duty, they were obeying the recent and peremptory orders of the Company.— Notwithstanding this objection of partiality, which seemed to apply to every proceeding of these gentlemen in the business, under whatever title they might assemble, Mr. Hastings assented to their sitting as a Committee of the Board, and to their carrying on the inquiry in that form, in any way they might think proper. A proposition not easily reconciled with his objection to their judgment as parties.—We may judge, however, of the sincerity with which this proposition was made, by comparing the grounds on which he supported it, with other parts of his conduct. He would not suffer the examination to proceed in Council, because it compromised his dignity to be accused where he presided, or to be confronted in the seat of the governor-general with Nundcomar his accuser; and because the same purpose could be obtained in a Committee of the Board at which his presence was not necessary.—This, I say, was his argument; but he has not shown what inconvenience there would have been in simply assenting himself from the Board during their proceedings on this subject, and leaving the chair to be taken in his absence, according to the undisputed constitution of that Council, by the next in seniority to himself; without proceeding to the extremity, and, according to his own argument, the unnecessary extremity of dissolving the Council itself? Let me ask then, first, why the gentleman, against whose judgments he protests, were to be more impartial in a Committee than at a Board; and next, how his dignity could be more wounded by the attendance of witnesses before these gentlemen, in his own absence, with the word "Board" at the head of their proceedings, than with the title of "Committee?"—It is superfluous to dwell on these circumstances. — The conduct of Mr. Hastings, on this occasion, had not one feature of innocence. It presented, in every point, the perplexity of guilt. Contradiction in his argument; inconsistency in his measures; an assertion of false pride, and a neglect of true dignity; a total silence on the matter of the charges, but a plentiful and loud abuse of the person who brings them; and at length, the whole terminating in a flight from justice.

These, Sir, are not my sentiments alone. I do firmly believe that they are those of every man who ever contemplated this scene; but I wish to justify what may appear harsh in the conclusion I have drawn from these proceedings, by the authority of one of the most faithful, upright, and intelligent officers that ever served a public body—I mean the late Mr. Charles Sayer, who was standing council to the East-India Company. He had been consulted by order of the Directors on the legality of the measure taken by Mr. Hastings, of dissolving the Council by his single authority, an expedient to which the Committee should be informed, Mr. Hastings had recourse no less than three times during these inquiries of the Board into his conduct— The Opinion delivered by Mr. Sayer, is in these words:

"The civil government being vested in the Governor and Council, in like manner, and to all purposes, as it was exercised before by the President and Council, or Select Committee, the President always issued or ordered summons for the meeting of the Council, and it should seem that the Council cannot legally meet without such summons; the meeting of the Council depends on the pleasure of the Governor, and I think the duration of it must do so too; but it was as great a crime to dissolve the Council upon base

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and sinister motives, as it would be to assume the power of dissolving if he had it not. I believe he is the first Governor that ever dissolved a council inquiring into his behaviour when he was innocent. Before he could summon three councils and dissolve them, he had time fully to consider what would be the result of such conduct, to convince every body beyond a doubt of his conscious guilt.

"*7th January*, 1776. C. SAYER."

If any doubt could remain on this subject from the transactions on which I have just commented, they would, however, be entirely removed by a consideration which arises from the subsequent conduct of Mr. Hastings, and which applies as well to the present hour as to the first day on which these accusations were preferred. —The observation is, that to the moment in which I am now addressing you, Mr. Hastings has never yet denied the principal facts contained in the charges of Nundcomar, although they have ever since in many shapes, and before various tribunals, been made matter of inquiry, reproach, and even prosecution against him.—In his representations to the Directors of these transactions at the period at which they happened, which are contained in his letters of the 25th March and 16th May, 1775, and are printed in Appendix I, to the 11th Report of the Select Committee, you will find, Sir, no denial of Nundcomar's specific allegations.

This is rendered the more remarkable by observing, that to some of the more general and less definite charges Mr. Hastings does make some reply. With regard to the specific charge of corruption which has been read, the Committee shall judge for itself of the answer made to it by Mr. Hastings. In his letter to the Court of Directors, dated 25th March, 1775, he says on this subject: "Those" (meaning those proceedings of the Board, and of the majority) "relating to the allegations of Rajah Nundcomar, have been committed to the hands of your attorney, for the purpose of commencing a suit at law against me, in the name of the Company, for the recovery of the sums said to have been received by me from Munny Begum, in the year 1772. I reserve my defence for the same channel; not choosing to give my adversaries an advantage by anticipating it, nor to bespeak your premature judgment on a cause thus depending." Mr. Hastings accordingly adhered so strictly to this prudential and delicate reserve, that he not only declined communicating the grounds and materials of his defence, but he had even self-restraint enough to abstain from a simple denial of the facts, although it is difficult to perceive in what manner the mere denial of an accusation, and a general plea of not guilty can prejudice a subsequent trial, or betray any dangerous information to an adversary, and although silence in such circumstances is commonly enough interpreted to be an acquiesence in the charge, and a tacit confession of consciousness and guilt. I would entreat the members of the Committee to peruse the whole of this letter, which, with its enclosures, is not a short one, and to watch carefully for any one positive denial of Nundcomar's charge. The Committee will find Mr. Hastings does enter on the most important of these charges, namely, that of a large bribe taken for the appointments of Munny Begum, and of Rajah Goordass to their great offices; and he refers to former proceedings for an account of his motives on those occasions, and to experience for their propriety. Can any one read these paragraphs without expecting at every line a clear and explicit assertion that he is innocent of the facts imputed to him? And is it possible to resist the conclusion suggested to the most unwilling mind by the perpetual disappointment in this natural expectation? In lieu of this plain proposition, the Committee will find that which seldom fails to be substituted when the former is wanting—I mean general professions of character and principles. "Foiled" (says he) "in all their repeated attacks upon me, my adversaries have recourse to the charge of rapacity; a charge of all others the most foreign to my nature." How much force would have been added to this declaration of his own purity, if it had been followed by this short sentence! The charge is not only foreign to my nature, but false in point of fact, and I call on my accuser to prove it if he can. Instead of this method of answering a positive accusation of specific facts, Mr. Hastings subjoins an argument to prove the improbability of his guilt. The Committee may judge of the validity even of that argument by turning to that part of the letter. It consists of three instances in which he says he did his duty, notwithstanding the opportunities they afforded for peculation. Not to dispute the facts in these cases, which, however,

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were not under conisderation at the time, and admitting them to be exactly as stated by himself in his own cause, I must fairly say that the only certain conclusion, I can draw from them is, the facility, which, Mr. Hastings informs the Directors, attended the grossest and most abandoned corruptions. For such are those, which he not only takes credit for not practising, but his abstinence from which he considers as an answer to other positive charges; and as sufficient compurgations, as it were, of all other accusations. Nundcomar accuses him of having taken a bribe from Munny Begum. This he does not deny; but he says that he did not take one from the great Mogul; concerning whom there was no mention at the time. It is as much as if one indicted for robbing A. B. should plead that he had been so honest as not to rob C. D. although he had met him in the dusk.—The Committee will find the same reserve used in the subsequent letter of Mr. Hastings to the Court of Directors on this subject, dated 16 May, 1775. This letter professes to be an answer, paragraph by paragraph, to a letter addressed by the majority to the Court of Directors, and is written in columns, placing the paragraphs of the majority on one side, and his own answers on the other. The last paragraph, which he undertakes to answer, is this: "Whatever might have been his motive," (meaning the motives of Nundcomar) "his discoveries have thrown a clear light upon the honourable Governor-general's conduct, and the means he has taken of making the very large fortune he is said to possess of upwards of forty lacks of rupees, which he must have amassed in two years and a half." There is here conveyed, to their common masters the Court of Directors a pretty clear and intelligible charge against the Governor-general by three members of the Supreme Council, that he had amassed a large fortune, by the peculations described in Nundcomar's accusation—What part of this charge would any member of this Committee think the most material, and be the most impatient to deny? To what part of it is one's expectation of a reply naturally led by the precise and correct form, in which the respective accusations and answers are opposed to each other? Is it the sum, at which his fortune is estimated, or the charge of acquiring it by corruption, that makes the substance of the paragraph, for the refutation of which he prepares us with so much ceremony? To the charge of corruption, coming in this authorative way, and referring to a number of particular and circumstantial facts, Mr. Hastings replies not one syllable; but he assures the Court of Directors that he will show the misinformation of the majority, as to the amount of his fortune, by a declaration of his own on that subject; and that declaration is not subjoined; but the misrepresentation, even of that fact, is to wait for its rectification, not to any definite time, however remote, but till the Court of Directors "may think proper to express a desire of knowing it."—"The amount of my fortune shall be faithfully declared to your honourable Court, whenever you may think proper to express a desire of knowing it: it will afford you a strong proof how greatly the informations of the majority differ from fact." Such, Sir, is the answer, and the whole answer made to the charges of Nundcomar at the time. Let the Committee, next, turn to the answer put in by Mr. Hastings to these very charges, at the bar of this House, for they make part of the articles of impeachment against him; it will be found that no denial of these facts has even yet been hazarded—Sir, am I rash, then, in saying the facts were true? In asserting that Mr. Hastings did receive a large sum from the Munny Begum, contrary to law, contrary to the clear letter, spirit, and understanding of his covenants with the Company, I shall neither be contradicted by a word that has ever fallen, as yet, from the pen of Mr. Hastings, or of any of his advocates, nor do I fear a contradiction, even now, from any of that description, in whose presence I speak.

Sir, I know, I am not now impeaching Mr. Hastings, nor is it of itself a desirable thing for me to implicate other causes with my own, and to unite and confederate more adversaries than I am of necessity engaged with. But it is a material and substantial point of my own cause to show clearly the relative situation of Mr. Hastings and Nundcomar at that period; because a main point of my charge against sir Elijah Impey hinges on the influence and connexion of these circumstances with the subsequent trial and fate of Nundcomar.

My proposition then, is this: That Nundcomar had brought a grave and specific accusation against Mr. Hastings in the Supreme Council, the members of which were competent to examine it, and had

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actually engaged in the inquiry. That every circumstance in the conduct and behaviour of Mr. Hastings on the occasion demonstrates his guilt, his dread of investigation, and his determination to avoid a trial. That a conviction of the crimes imputed to him, involved, of necessity, the ruin of his fortune, his situation, and his character. That no expedient remained to extricate him from this pressing and impending peril, but the suppression in one way or other of Nundcomar's evidence. That the suppression of that evidence had become impossible by any other means than the removal of the witness, than the destruction of Nundcomar. That Mr. Hastings and Nundcomar could no longer both exist in safety, and that the death of the accuser was become the last refuge of the accused.

Such, Sir, is the situation of the parties resulting from the narrative and the documents I have laid before you. With this key to the subsequent events, let us see what ensued—Nundcomar has accused Mr. Hastings. Mr. Hastings has not denied the charge, but has exerted every means in his power, legal or not, to prevent examination. The Council has proceeded in spite of his opposition, and the result of their inquiries has been a resolution of the Board to institute a suit against Mr. Hastings on the matter of these very charges, and to bring it to public investigation in a court of law—Mr. Hastings has not yet advanced a step in the open and usual mode of defence against an accusation—Thus stand the parties. Observe, Sir, what follows—In this very instant, in this crisis of affairs, the next thing we see is Nundcomar assailed at once by no less than three prosecutions in the Supreme Court—One in the name of Mr. Hastings himself, as the avowed prosecutor, aiming at the credit and character of Nundcomar; another at the instance of his associate Mr. Barwell; and a third, striking directly at his life, at the instance of one whom Nundcomar had stated two months before as his inveterate enemy, and as having become, on that account, the late guest and companion of Mr. Hastings. Sir, I affirm that no man, not immediately connected with the guilty party, has ever yet been capable of viewing all the circumstances which preceded and accompanied this prosecution, of considering the relative situation of the parties, the peril and urgent condition of Mr. Hastings, and then the singular concurrence between his necessities and the opportune events, which followed, without ascribing the one to the other, without considering the one as cause and the other as effect; nor do I believe the human mind capable of so difficult an abstraction, as to separate the trial of Nundcomar for forgery, from his accusation against the Governor-general for corruption. The internal evidence furnished by the facts themselves is so powerful, and to me I confess so irresistible, that it seems neither to require the confirmation of express testimony, nor capable of yielding to the most express contradiction—It is my duty, however, to advert to that part of the evidence received by the Committee, which bears on this subject—The evidence, which applies to this part of the case, was given by Mr. Farrer, a member of this Committee, and, as I shall have occasion to submit to you some observations, which require an attentive consideration of this part of Mr. Farrer's testimony, the most satisfactory way of entering on the subject will be to read, from your minutes, the passage on which I am to comment; and I shall begin with the very first words of his examination.

Mr. Farrer was asked, "When did you go to India?"

"And Mr. Farrer having desired to state to the Committee what he knew on the matter of the said charge,

"He was asked,

"Will you please to give the Committee the information you possess relative to the matter of the first article of charge exhibited against sir Elijah Impey.

"I arrived in Calcutta two or three days previous to the arrival of the judges appointed to carry into execution the appointment of a Supreme Court of Judicature at Fort William in Bengal, which was some time towards the latter end of October, 1774—I was the first person admitted an advocate of that Court; on the very day on which the Court was formed—I continued senior advocate of that Court during the whole of my residence in Calcutta—The Court was formed the latter end of October, 1774—To the best of my recollection a term was immediately held, but no business, scarcely any, was transacted during that term—I stood for some time the sole advocate of that Court; and I believe every person there was very much indeed unacquainted with what the business of an advocate was—Some little time afterwards other gentlemen were ad-

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mitted advocates as well as myself—I was applied to before I had been a month in Calcutta, by Mr. James Driver, who had before been an attorney in the Mayor's Court, and who had been admitted an attorney in the Supreme Court. Mr. Driver stated to me the matter in dispute between Mohun Pershaud, as the attorney of Gungabissen, one of the executors of Bollakee Doss Seat on the one part, and Rajah Nundcomar on the other.—He told me, that there then was before the Dewannee Adaulet a suit proceeding between those parties, and to the best of my recollection, that he himself was concerned in it;—but it appeared from the information he had received from his client, that Nundcomar, though proceeded against in a civil suit in that Court, had committed a forgery—That he had advised his client to proceed criminally against him as for a forgery—by his client I mean Mohun Pershaud—and that Mohun Pershaud had acquiesced in that advice—That all the papers of the late Bollakee Doss Seat were then in deposit in the Mayor's Court—That in order to enable him to prefer a bill of indictment as for a forgery, it was necessary that he should first of all possess himself of the original instrument charged to be forged—That he had accordingly, in March 1774, moved to have all these original papers, amongst which was the instrument in question, delivered to him, or to his client—but that the motion had been refused—and that the Mayor's Court had only offered him attested copies, to make such use of as he should think proper—That an attested copy would by no means answer his purpose, of preferring a Bill of indictment; and that, therefore, he had been prevented from proceeding further in that mode at that time—This information of Mr. Driver's is confirmed by part of the evidence taken in the printed trial, and at which I was present in the Supreme Court when it was taken from the records in the Mayor's Court. Mr. Farrer then read an extract from the printed trial of Nundcomar—page 86, as follows:

"25th *March*, 1774.

"Mr. Driver, attorney for Gungabissen, read a petition from him, stating, that by order of the Court, all the papers belonging to the estate of Bollakee Doss were deposited in the Court, among which were twenty-eight bonds, receipts, and vouchers; that he had commenced suits in the Dewannee Adaulet, and wanted the said bonds, receipts, and other vouchers, in order to establish the same; and praying, that they may be delivered to him, giving the usual receipt for the same. The Court deferred the consideration of the said petition till next court-day.—Ordered, That an officer of the said Dewannee Adaulet be permitted to attend at the Register's-office to inspect the books, papers, and vouchers aforesaid."

Then Mr. Farrer said, "The officer of the Dewannee Adaulet was allowed to inspect them, but Mr. Driver was not allowed the papers themselves.

"Thus the matter rested when Mr. Driver consulted me—He told me that the Mayor's Court had not been so entirely free from influence as could have been wished, when proceeding against men of a certain description, such as Nundcomar, but that now, that a more independent court was come out, he should advise his client to authorize him to instruct me to make the same motion before the Supreme Court of Judicature, to wit, for the original papers—that he had himself made before without effect in the Mayor's Court—accordingly I was instructed, and did move on the 25th of January, 1775."

It is unnecessary to trouble the Committee with reading, verbatim, the motions of Mr. Farrer, and the orders of the Supreme Court on this subject, and all that it is material to know is, that, on the 25th January, 1775, Mr. Farrer, in compliance with Mr. Driver's instructions, made an application to the Supreme Court for the delivery of these papers, from the registry of the late Mayor's Court to Gungabissen; and that, after some time passed in proceedings on this application, Mr. Farrer did obtain from the Supreme Court, on the 24th March, 1775, a peremptory order for the delivery of the papers within one month from that day. It appears, accordingly, from the evidence of Mr. Sealy, at the trial, that the papers were delivered to Gungabissen about the 27th April.

Mr. Farrer after reading these proceedings in the Supreme Court, continued his own testimony, and said, "I hold in my hand an attested copy by Mr. Tolfree, the under sheriff, of the warrant of commitment of Nundcomar, dated the 6th May, 1775—The papers were ordered to be delivered within one month after the 24th March, 1775." Mr. Farrer accordingly read the warrant, which was

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dated, as he had said, on the 6th May, 1775.

The Committee is now in possession of the whole of the evidence, applicable to the point we were considering. There is no doubt that this evidence, if perused hastily, and accepted without consideration of many material circumstances which relate to it, will appear to affect the proposition of a connexion between the indictment of Nundcomar, and his accusation of Mr. Hastings, which is suggested by the transactions themselves, such as I have faithfully related them from the only materials of which any person, except Mr. Farrer and Mr. Driver, seems to have been possessed. For the Committee must observe that this early intention of indicting Nundcomar for forgery was never suggested to the world, till Mr. Farrer acquainted this Committee with the communication between Mr. Driver and him on the subject. It was never suspected by me, and I will give the Committee, by-and-bye, reasons which appear to me conclusive, for believing, that it never reached Mr. Hastings, nor sir Elijah Impey, nor any one of their numerous friends and defenders. This matter, on the contrary, so immediately affecting a capital point both in the trial of Nundcomar, and in the subsequent imputations on the characters of the Governor-general, and the Chief Justice, for their shares in that proceeding, was not only never adduced at the trial, when the very point, to which it applies, was in question, and the information was possessed by the attorney for the prosecution, whose cause it would have served, but has been locked up in the breast of that attorney, a profound secret to the hour of his death, and has been carried with him undivulged to the grave—Let us see, however, in what manner it applies to this subject. The effect of the conversation, related by Mr. Farrer, undoubtedly, is, to show, that an intention to indict Nundcomar for the forgery existed, before the delivery of his charges against Mr. Hastings; those charges having been presented to the Council on the 11th March, 1775, whereas, according to the account of Mr. Driver, he had advised Mohun Pershaud to prosecute for the forgery by indictment, Mohun Pershaud had assented to his proposal, and some steps preparatory to that proceeding had been taken as early as March 1774, a year before Nundcomar had preferred his accusation against Mr. Hastings. The relation, given by Mr. Farrer, of the proceedings in the Supreme Court relative to the papers of Bollakee Doss, farther tends to account for the commencement of the prosecution against Nundcomar taking place just at the critical period in which it occurred. For it would appear that the prosecutor could not sooner obtain possession of the materials which were necessary to render the prosecution effectual, and that he commenced the proceeding as soon as he was furnished with those materials; which, although it happened just in the midst of the struggle between Mr. Hastings and Nundcomar, cannot, however, be necessarily ascribed to that circumstance, since the course of the proceedings themselves did naturally determine the date of the prosecution, and brings its commencement precisely to the week, on which it happened. This I take to be, as strongly as I am able to state it, the full import of any advantage, to be derived by sir Elijah Impey, from the evidence of Mr. Farrer on this point. I must entreat of the Committee an attentive consideration of a few remarks which I have to offer on this evidence, and I must begin by hoping that, in the observations which I think it my duty to make on this matter, the honourable member, Mr. Farrer, to whom the Committee is so much indebted for the important information he has communicated, cannot suspect me of calling in doubt, for a moment, the veracity of his evidence, nor even its correctness, beyond the uncertainty which must ever attend the recollection of conversations at a great distance of time, which have not been preserved by any written memorial taken at the period when they happened, nor recurred to even by the memory, probably for an interval of several years. The Committee will see that the whole rests in the case on the credit, not of Mr. Farrer, but of Mr. Driver. Mr. Farrer has related to us the substance of what Mr. Driver said to him in a conversation some time in the month of November, 1774. It is, therefore, the communication made by Mr. Driver to Mr. Farrer, and not that made by Mr. Farrer to this Committee, on which I have occasion to make some remarks. I cannot, however, refrain from pointing out to the Committee an example, afforded here by Mr. Farrer, of the extreme delicacy attending evidence which consists in a precise recollection of distant conversations. There is a nicety in this instance,

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which, I own, escaped me, when I first heard it in this House, but which I think worthy of remarking now. What I aim at is, the very important and considerable difference occasioned in this cause, by a very slight and trifling difference in the way of understanding, and relating this conversation of Driver's. Taking it verbatim, as recited by Mr. Farrer, it undoubtedly imports, that Mr. Driver had advised an indictment, and had taken certain steps with that view so early as the 24th of March, 1774. But what I wish to observe, is, that all the matter contained in Driver's conversation would apply not only as well and as naturally, but much more so, to his having advised an indictment at the date of his conversation, that is to say, in November, or December, 1774, and that in fact this latter account would be exempt from several difficulties, amounting pretty nearly to contradictions, and certainly shaking extremely the credit of the story, to which I shall presently show the other supposition of an earlier intention to indict, is exposed. I would next wish the Committee to remark, how very slight a variation in the words used by Mr. Farrer, and therefore also in those which may have been used by Mr. Driver, would occasion the whole of this difference between the two propositions; I mean, between the proposition of Mr. Driver's having advised an indictment for forgery against Nundcomar in March, 1774, and that of his having done so only in November, 1774—You will find, Sir, on reading this part of the evidence, that the word "accordingly" is the first, and, perhaps, the single one, which denotes an intention to indict earlier than the time at which Mr. Driver was speaking, or which expresses the proceedings which he mentions, in the Mayor's Court, to have taken place with a view to a proposed indictment, and not to the civil suit, then existing in the Dewannee Adaulet. The words of Mr. Driver, as related by Mr. Farrer, are, "That he had accordingly, in March, 1774, moved to have all the original papers, amongst which was the instrument in question, delivered to him or to his client." Strike out the word "accordingly," and Driver is only acquainting his counsel, Mr. Farrer, as it was natural for him to do, with the proceedings which had already taken place, relative to the business, on which he was about to give him instructions for instituting farther proceedings in the Supreme Court. Insert the word "accordingly," and these former proceedings do certainly become immediately connected with an early purpose of indicting Nundcomar for forgery. The addition, therefore, or admission of this single word in the middle of a sentence, which is as complete without it, in the recollection of a conversation which passed between thirteen and fourteen years ago, gives to this part of that relation the considerable difference in its import, which I have mentioned. The only other words confirming this meaning, are the following: "And that therefore he had been prevented from proceeding farther in that mode at that time." And of these, the words "at that time" are those which alone convey that sense. It is even to be observed, that the words "at that time" are also to a certain degree equivocal, and may as well have been used by Mr. Farrer to signify the time of the conversation which he was relating, as that of the earlier proceedings in the Mayor's Court, mentioned by Mr. Driver; and, although I confess that I understand Mr. Farrer to have used those words in the latter sense, I am led to that construction rather by the consideration that the same meaning had been expressed before by the word "accordingly," than by the necessary import of the words themselves. I know that it may be said in answer to these remarks, that a single word, and a shorter word than that which I am observing on, does constantly make, in the most important propositions, the greatest difference of which any proposition is capable, namely, that between the affirmative and the negative. This is certainly true, and I admit the force of this word "accordingly" to be as decisive as the most explicit and the most repeated declarations to the same effect, if it could be equally certain that it was actually used. To this I know it may be again answered, that Mr. Farrer did not profess to relate literally the words of Driver, but only the substance of that conversation, as Mr. Farrer understood it from the tenour of all that passed between them; that although Mr. Farrer has indeed reported that conversation to the Committee in terms, which make a single and almost insulated word, of which one can hardly suppose the memory so tenacious at such an interval of time, give an important turn to the whole of Mr. Driver's communication; yet it is possible that Mr. Driver

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himself may have been so full and explicit with Mr. Farrer on that very point, as to enforce, both on his understanding and memory, the proposition, which Mr. Farrer has delivered so compendiously, and so nearly in the manner of insinuation rather than assertion, in his evidence to this Committee. I allow this observation also to be just, and for that reason I am coming immediately to the consideration of Mr. Driver's account, on that supposition; but I must, in the mean while, insist on the proposition I had in view, and for which alone I have introduced these remarks, namely, that Mr. Farrer has furnished in this instance, by the very terms in which he has delivered his testimony, a proof of the possibility, and even of the likelihood, that Driver also may have expressed himself in such a manner, as that any two men might very well have understood, and, especially, have reported at a distant period, his conversation, differently from each other on that point. Let any gentleman peruse this conversation once more, and suppose it to have passed in substance with himself thirteen years ago. Let him then reflect, whether it is not extremely likely that he should be unable at this distance of time, or rather, whether it is not extremely unlikely that he should be able to say positively now, whether Mr. Driver, in the mention he made of the proceedings in the Mayor's Court to obtain possession of these papers, had informed him of that matter, as of a step in a proposed indictment at the date of those proceedings, or only as belonging naturally to the subject on which he was giving him instructions, with a view to a subsequent indictment, proposed at the date of this conference. I am quite sure that few memories would serve correctly enough to be depended on, on such a point, unless it had been made matter of particular inquiry and discussion at the time, which it does not appear to have been. Without departing, therefore, in the slightest degree, from the respect due to the testimony of that gentleman, I think myself justified in observing, that the account given by Mr. Farrer of this conversation with Driver, is but a feeble contradiction to the strong inference I have stated to arise from the facts already mentioned in this cause; and its effect must be the weaker, when opposed to the difficulties and inconsistencies, which I am about to observe on, in the context of this very conversation. These observations, Sir, have made, I confess, an impression on my own mind, and have left on it a considerable doubt respecting the principal and material point, resulting from this part of the evidence. I have, for that reason, suggested them to the better consideration of the Committee, as I thought it my duty to do; and I am very happy to have done so, without the possibility of offence to the honourable person, Mr. Farrer, from whom the subject of these remarks came, and without the slightest disparagement even of his general correctness—I now proceed to the consideration of this conversation, taking it exactly and literally, as it stands on your minutes.

I return, then, to my first observation, that the whole rests on the credit of Mr. Driver, and comes to us in a form, which is at all times questionable, and, in general, totally inadmissible—I mean that of mere hearsay. But that is not all, for it is hearsay of a kind to claim less credit, than even that which is rejected by the general practice of our courts. It is not only a naked declaration, unsupported by the sanction of an oath, unquestioned and unsifted by the party whom it affects, which I take to be the general grounds for the inadmissibility of such matter in evidence, but it is the declaration of one, who spoke, at the time, on that point, without the common obligation to accuracy or even truth, which justly obtains credit in general to the conversation of gentlemen. It is necessary to consider the situation of Mr. Driver, the business he was on, and the person to whom he was speaking—Mr. Driver was attorney to the prosecutor of Nundcomar, and he was come to instruct Mr. Farrer, as counsel, to move for certain papers in the Supreme Court, as preparatory to a proposed indictment. The Committee must observe, that the proper business of Mr. Driver in this conference was confined to the application for these papers, and that this was the only instruction Mr. Farrer received, professionally, from him, on that occasion. Whatever was the real object of Driver, or his client, in their measures for obtaining possession of the papers, and whether they were, even at that time, intended for a criminal prosecution, or not, it is certain that Mr. Driver neglected a most important point for the interest of his client in such a prosecution, for he did not retain Mr. Farrer as his counsel in the cause; and we find that gentleman,

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accordingly, acting as advocate on the other side when the prosecution really took place.

Mr. Farrer has told us that "he stood for some time the sole advocate of that Court; and he believes every person there was very much indeed unacquainted with what the business of an advocate was." I do not know whether Mr. Farrer was still the only advocate in Calcutta at the date of this conversation, but he stood in such a degree of eminence in that new profession, that he was, beyond all question, the first to whom any client would have applied: Mr. Farrer was, clearly, not retained at that time on the part of Nundcomar; for, in the first place, no proceeding had as yet taken place against him, which could induce him to employ counsel in his defence, and in the next place, if Mr. Farrer had been retained by Nundcomar, he could not have accepted instructions from Mr. Driver, the declared purpose of which was a prosecution in which he was already engaged on the other side—I cannot refrain from observing here, in passing, that this omission of Mr. Driver's, in not securing this gentleman, who was at the head of his profession, and the only person who could afford him effectual assistance, as he afterwards experienced, is not easily reconciled with a settled intention at that time to institute a cause, at once so important and so full of difficulty as that which followed; and the omission appears the more extraordinary, as he actually employed him in a previous step of that cause. It results, however, from this circumstance, that the sole object of Mr. Driver's instructions to Mr. Farrer was to obtain possession of the papers belonging to the estate of Bollakee Doss, and that all that passed between them, on the subject of the prosecution, was mere conversation. Let us now consider what the tendency of that conversation was. Mr. Driver informs Mr. Farrer that he was about to commence a prosecution against Nundcomar for an offence of a pretty old date, and he thinks proper to account to Mr. Farrer for that prosecution not having taken place sooner. I say, Sir, that this was a subject on which Mr. Driver was under no obligation to disclose to Mr. Farrer the secret history of this business, and thereby, perhaps, the secret motive of his client, and that it is easy to suppose many reasons, which should have made it improper on the part of Driver to lay the true state of that matter before Mr. Farrer.*

Sir Gilbert Elliot proceeded to state a variety of the particular transactions in India, in which Nundcomar had been concerned, tracing the conduct of Mr. Hastings down to the trial and execution of the unfortunate Rajah, inferring from the whole, that he had been made a political sacrifice by sir Elijah Impey, contrary to his sense of law, and contrary to his duty. He said he would not attempt to prove an actual communication between Mr. Hastings and sir Elijah, previous to the prosecution, because it had been held that, in proving crimes which depend on a combination, it was not necessary to prove the combination. Lord Mansfield, in the case of the Cock-lane Ghost prosecution for a conspiracy, had contended, that there was no occasion to prove the conspiracy, but that it might be collected from collateral circumstances. Having stated this, sir Gilbert observed, that the judges had themselves suppressed the circumstance of the illegality of trying a native of India on an English penal act, making that a capital offence which was not so by the laws of India, and insisted that the execution of Nundcomar was unjustifiable on two grounds; first, that the Supreme Court of Calcutta had not criminal jurisdiction; and next, that, even admitting that they had, they could not exercise it to affect the life or limb of a native Hindoo, under an English act of parliament. In proof of this, he referred to the acts of Parliament, and to the charter constituting the Supreme Court. By the former, it was clear no power of criminal jurisdiction was given. Under the latter, he admitted, it might be contended that such a power did exist; but then, on what written authority could it be exercised? He entered into a discussion of the question, Whether a king of England, exercising sovereign power over a conquered country, had a right to extend his laws to that country, and subject the natives to their operation without the consent of his parliament? He denied that he could, and pointed out the extreme danger that must result to our constitution at home, if a British king could

* Thus far the above report of sir Gilbert Elliot's speech upon this day was prepared for the press by the honourable baronet himself. It is much to be regretted that it was never completed.

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so far carry his prerogative royal. To legislate implied a right of taxation, and if a king of England could, through the medium of taxation, assume the revenues of the provinces of India, he might apply those revenues to the payment of armies without the consent of parliament, to the destruction of our constitution. He asserted, that in no one law-book, or book of reports, was there a case to be found, in which the authority of a court of law to sanction such a doctrine had been given. It was true, lord Mansfield had, in two cases, laid it down from the bench; but then the Committee were to recollect the essential difference and distinction between a mere *dictum* of an individual judge and a judgment of a court. The fact was, it never had been so decided; and even lord Mansfield's *dicta* had been loose and irrelative. He referred to printed reports of the law cases where lord Mansfield had delivered the *dicta* in question, and reasoned upon each to illustrate his argument. After much discussion of this point, and a reference to lord Coke and to the work of baron Mazeres upon the subject, he admitted the doctrine for a moment, and proceeded to prove that Calcutta was not a *pais conquis*. In order to effect this, he produced the original grant in 1697, and read its contents, whence it appeared that Calcutta was originally let to the East India Company as a zemindary, and upon stipulated conditions. He stated, that the grant was renewed again in 1718, and that the Company did not obtain a free and full possession of it, in their own right, till the year 1756. He produced other grants and documents, to which he referred as the occasion of his argument required, and, at length, begged leave to postpone the remainder of what he had to offer in support of the first charge until another opportunity.

The chairman thereupon reported progress, and the House resolved to go again into the Committee on the 7th of May.

Debate in the Commons respecting Promotions of Flag Officers.] April 29. Mr. *Bastard* rose. He began with declaring, that, had his former motion been agreed to, the motion he was about to make would have been unnecessary. He should not so frequently have troubled the House, were he not convinced of the necessity of some measure being adopted to prevent, in future, any cause of complaint in respect to promotion. Seeing the injustice offered by the late promotion to those brave officers who had been passed by, seeing the insult offered to the service, and the danger which such conduct threatened to the nation, he could not conceive that he fulfilled his duty as a member of that House, unless he took the sense of the House on the principles which had, seemingly, been laid down by that promotion. The question before the House would be plainly, Whether the Admiralty should take the entire patronage of the flag, and dispose of it to whom they thought proper, with or without merit, or whether the flag should be disposed of according to merit? The only principle discoverable in the late promotion, (if any principle was to be discovered) was a determination not to promote those who had gallantly exerted themselves in the service of their country in the victories under lords Rodney and Hood in the last war; and it was a matter of fact, that none of the officers under those commanders had been promoted to the flag, sir Charles Douglas alone excepted, while others had been promoted to that rank who were junior officers, and who could not boast any greater merits than their seniors who were passed over.—He then recapitulated the heads of his former argument, and made several remarks on the conduct and evasions of the Admiralty in passing over those officers, and of the many contradictions they had involved themselves in for the purpose of particular promotions, referring to their own letters, which he had, on a former day, produced in justification of his observations. It was to no purpose, he added, that captains exerted themselves; for the most distinguished conduct would not insure to them their regular succession to the flag: they were to have no honourable badge for their meritorious services to distinguish them from the coward and skulker. The principle laid down by the late promotion went to give an arbitrary power to the Board of Admiralty, a power which would destroy the exertions of the navy, prejudice the service, and be of the most alarming consequence to the country. To prevent these effects, he wished the House to adopt some measure, whereby a permanent rule of service might be laid down, enabling officers to know what they had to trust to, and in what manner it would be proper to conduct themselves to secure their succession to the flag. If the motion should

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meet with their approbation, he doubted not but the country and the service would be satisfied, that no meritorious officer would hereafter be set aside by the caprice of a first lord of the Admiralty. The late promotion he considered, and he believed the country at large so considered it, to be founded on principles the most cruel, unjust, and impolitic, and as he was desirous to correct it, he therefore moved, "That it is highly injurious to the naval service of Great Britain to set aside in promotions of flag officers, officers of distinguished merit and approved service, who are not precluded from such promotion by any orders of his Majesty in council."

Sir *W. Molesworth* seconded the motion, from a conviction that it was absolutely necessary the House should come to some resolution to encourage meritorious and gallant officers, and to revive their hopes of obtaining a succession to the flag. The question before the House went not to say who should be employed, but who ought to be rewarded for past services. He never expected to have seen, during the course of the present administration, such men as captains Balfour, Thompson, Laforey, and Bray, passed over and disgraced. He never expected to have seen merit so rewarded by the present ministry. A lesson was thereby held out to the service, that not merit, not valour, not fifty-four years arduous service for the good of the country, were sufficient recommendations to ensure the flag, but that all depended upon selection; upon the favour and friendship of the first lord of the Admiralty. A new mode of education was by such conduct pointed out to all young men entering upon the naval service; they need not exert themselves to become hardy, bold, and experienced tars; for such qualifications would be of no service to them, but their interest, their succession to flags would be best secured by creeping and cringing to the lords of the Admiralty.

Sir *John Miller* said, he had risen several times in the debate of the 18th, to offer his sentiments upon the late naval promotion, but had not been fortunate enough to catch the Speaker's eye. Regarding, however, the present motion as standing precisely upon the same foundation, he should now endeavour to reply to the arguments that had been adduced in justification of the conduct of the admiralty. He expressed his sorrow, that a question of so much magnitude and delicacy should ever find its way into that House. He lamented, that during the administration of a right hon. gentleman, distinguished for his abilities, his integrity, and his justice—that during the residence of a noble lord at the board of Admiralty, whom he believed to be as honest and as brave a man as any that existed, and to whose conduct and command he would most freely confide that fleet that should fight for the last stake of this country, a precedent should be attempted to be established, which had both irritated and disgusted every seaman of Great Britain, except only a few gentlemen of that profession then present in the House, who were in immediate possession of emoluments conferred on them by the present administration. However, the matter was now completely *coram judice*, both opinions were fully at issue, and the vote of that night must determine, whether the naval officers of this country might in future be irritated, degraded, and disgraced without economy to the public, or advantage to the state.—Sir John assured the House, that he fully absolved lord Howe's integrity, while he as decidedly condemned his judgment in the late naval promotion; and expressed his surprise at finding no defence set up by any one lord of Admiralty, for a promotion so generally reprehended. One member of that Board (Mr. Brett) had risen merely to deny the charge brought against them of having garbled the papers that had been called for by the House; another (Mr. Hopkins) only to assert what every man already knew that there were precedents in former admiralty promotions, for passing by many of the senior captains. Was this the kind of defence which the House had a right to expect from a Board so constituted, and who were every one of them then in their places in the House? Of all the professional men then present in the House, one alone (capt. Berkeley) had attempted any kind of defence of the Admiralty, and he had argued only generally upon the inconvenience that might arise from parliamentary interference with the executive power. Sir John asked that honourable officer, whether he was yet to learn how difficult it was in this country to prevent political opinions from mixing themselves with, and influencing professional preferments? Had he already forgotten how many years of his early services had been lost to this country, by his

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disagreeing in politics with a former First Lord of the Admiralty? And how could he say, embarked as he now was in large and not very passive political connexions, whether a subsequent promotion to flags might not take place at a moment when he should be high upon the list of captains, and when a future first lord, who did not approve of his parliamentary conduct, might therefore pass him by, and rob him of his promotion? Would he fail to complain aloud of such a conduct towards himself, as most unjust and most partial? He most undoubtedly would not. Why, then, did he not give that measure to others that he would wish should be meted to himself? The minister, sir John said, had begun his speech on the former day, by admitting, "that it was the duty of the House to institute inquiry, when a case should be made out strong enough to warrant a suspicion of injustice." Such a case, sir John asserted, had been very sufficiently made out; nay, it had been even so voted by 134 members of that House; it was true 151 had voted it otherwise. But, in his opinion, the first lord and his real friends should have eagerly grasped at the opportunity afforded them to come forward and justify their conduct, by an explanation of the motives that occasioned the late promotion. Had this been the case with them? Far otherwise; they had skulked behind a miserable majority of seventeen. The next statement of the right hon. gentleman was, that "he admitted the lieutenants Laforey and Balfour had performed a brilliant action at Louisbourg, but had they not been promoted to the rank of captain, and had they not received the thanks of that House? Were these no recompense for that honourable service?" Sir John said, the rank of captain was their indisputable right for the action they had just performed; any admiral, then commanding, could not have refused it them. But that great naval character, under whose eye they were at that time (admiral Boscawen) would not have endured, no not for a moment, the withholding from them the fair and immediate professional reward of their conduct. As to the thanks of that House, whatever those gentlemen might have thought of them in those times, they must not flatter themselves, after some late comments upon them, (by Mr. Pitt) that they would set any very high value upon them at the present day. Did the right hon. gentleman mean, that because they were made captains, and received the thanks of that House, for a glorious action achieved 30 years since, and had continued from that moment to the present, in the invariable performance of every duty of their profession, that, therefore, they might with propriety lose their turn of promotion to flags, to their disgrace and degradation? Where the right hon. gentleman had picked up this new nautical doctrine, one would be at a loss to divine, were it not for the subject of the present debate. But he would tell the right hon. gentleman, that very few men indeed, either in the naval or military line, had in the course of a long life of actual service a fortunate opportunity of distinguishing themselves by one brilliant action. But when they had that good fortune, and followed it up with good and faithful services, was that a sufficient reason to deprive them of the promotion that fairly came to their turn?—The next argument of the right hon. gentleman was, "that precedents for such omissions in naval promotions had frequently occurred in the most glorious periods of this country." With regard to precedent, he thought the present age as capable of making precedents for themselves as their predecessors. The right hon. gentleman had next asked, "would the House pretend to be more competent judges of the fit objects for naval promotion than the Board of Admiralty?" To this he would reply, "yes, most indubitably, as in the present instance." Not only the House of Commons, but every seaman, as well as landman throughout the whole kingdom, could judge better than the Board that counselled the late promotion. Where was the man that would take upon him to say, that sir John Lindsay, who was in a state of absolute decrepitude at the moment he received his flag, and when this country was arming for war, was as fit a man to be made an admiral as captain Thompson, who led lord Rodney's line on the ever memorable 12th of April, 1782, captain Laforey and several others, in whom were united health and activity, with all the useful experience of service? The right hon. gentleman had next proceeded to discriminate the respective situations and pretensions of sir C. Middleton and those of capt. Laforey; stating the latter, while employed at Antigua, as a mere civil officer, who had the charge of a single port. Sir John said, that lord Rodney's commission to capt. Laforey

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gave a flat contradiction to this assertion; and showed, that he was charged with the care and the defence of the island itself, and of its various ports, then the centre of all hostility in that quarter of the globe. The next position of the right hon. gentleman had been, "that a good captain of a man of war might not make a good admiral." This might certainly be the case; yet the presumption was rather against the position. But admitting that a good naval or military captain might not make a good admiral or general, let the executive power, which was responsible for its appointments, take care not to trust the command of its fleets or armies to insufficient officers, nor rob deserving professional men of their turn of promotion. The right hon. gentleman had dwelt much upon the responsibility of the executive power to parliament. This he could consider in no other light than as a mere piece of mockery, while a majority of the House appeared, with the right hon. gentleman at their head, determined to resist every species of inquiry into the now presumed abuses. So shielded, by what possibility could they draw from the executive power a fair information? He knew of no other means than by adopting the practice of the courts of justice, in regard to those who refused to plead to their indictments, viz. the pressing them gently and gradually (as our law expresses it) until they shall consent to plead. He contended, that the House had a right not merely to inquire into the conduct of every branch of the executive government, where there was ground for censure, but also where the House had cause for the slightest suspicion of abuse. An hon. gentleman had, on a former day, quoted lord Kaims, to show that the House possessed such a power. Not only lord Kaims, but lord Coke, sir W. Temple, Judge Blackstone, De Lolme, and all the writers on the British constitution so stated it. Sir John concluded with giving his hearty assent to the motion.

Mr. *Strachey* said, that he could not help taking notice of one particular, which had been strongly insisted upon by Mr. Bastard. It was, that lord Howe had enviously and invidiously marked all the captains who had assisted in the victories of lords Rodney and Hood. So injurious an aspersion, he flattered himself could not possibly rest upon a man whose character was so highly distinguished for honour and liberality of sentiment. He thought it incumbent upon him, however, as nobody had yet stated the truth of that matter, to assert, that several of those very captains had been included in the late promotion to the flag. He then produced a list, by which it appeared that four of the captains, serving with lords Rodney and Hood had flags given them by lord Howe, and that eleven others had been rewarded with various lucrative appointments.

Mr. *Grenville* said, that nothing could be more distinct and different than the motion then before the House, and the motion decided upon a few days before. The hon. gentleman had then moved an inquiry into the conduct of the Admiralty board, and gone into a statement of the facts on which he grounded the necessity of that inquiry. The House had then thought proper to negative the motion; and he never had given a vote more from conviction than he had done on that occasion, being perfectly satisfied, that the House of Commons was, of all others, the most improper place to discuss the characters of officers in, and that consequences highly injurious to the service must unavoidably follow, if any such motion were countenanced and adopted. Should that House ever so far depart from the wisdom of conduct that had hitherto marked its proceedings, and interpose in so essential a branch of the executive government, no advantage could result to the gentlemen of that profession, on the behalf of which the present motion was brought forward; but, on the contrary, the most essential disadvantage. Every officer who had access to one or more members of that House, would make that the road to preferment; and instead of endeavouring to do their duty well and to distinguish themselves at sea, officers would consider it as their first interest to canvass for parliamentary votes, to the prejudice of public business, the destruction of discipline, and, ultimately, perhaps, the subversion of the constitution. With regard to the present motion, having refused to go into an inquiry relative to the late promotion to the flag, he never could consent to lay down a general rule for the future regulation of such promotions. No man had attempted to suggest, that the first lord had been influenced by any improper motive in the late promotion. The only argument to be inferred from the present motion was, that military honours were to be considered, as re-

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wards for past services. That they ought not to be so considered, he had the authority of the right hon. gentleman opposite (Mr. Fox). For that right hon. gentleman had, in the last debate, expressly argued the question on the other ground, and contended, that military honours were to be bestowed with a view to future service. If the present motion passed, to what must the Board of Admiralty then resort? To seniority, a rule of promotion that must necessarily damp all ardour, and destroy all exertion. Nor were these the only grounds of objection to the motion. Before any general rule of promotion was laid down, he must contend, that it ought to be proved to be necessary. No such proof had yet been stated to the House. After it was proved, that the rule was necessary to be laid down, it behoved the House to take care that the rule was clearly and precisely expressed. Was that the case with respect to the present question? Most undoubtedly not. Before he could agree to it (admitting, for the sake of argument, that its necessity were established) he must be informed what was meant by the phrase "officers of distinguished merit?" What sort of exploit was it, what species of enterprise, what degree of success, that entitled the officer to be deemed meritorious? Again, what was he to understand from the term "approved service?" Was it meant that every officer who had received the thanks of that House was to have a flag? If so, they would every day see members rising to move the thanks of that House to their professional friends, for every trivial piece of success in the execution of their duty, and there would be no end to the admission of claims to preferment, when the day of promotion should arrive.—He must carry his objection to the motion still farther; because, if it passed it would imply a censure on the first lord of the Admiralty. Did that House wish to censure by implication? If a censure was thought to be deserved, did it become the honour and dignity of the House to imply it? Was it not their duty to declare openly and fairly that a censure was merited, if they thought it merited, and thus give the party to be censured a fair opportunity of being heard in his defence? Such had ever been the conduct of the House, and such, he trusted, would ever continue to be its conduct. Again, what orders of council were those that were alluded to? They ought to be specified. In conclusion, he must object to the motion; first, as it was unnecessary; secondly, as it was neither sufficiently definite nor precise; thirdly, as it tended to prove disadvantageous to the service; fourthly, as the orders of council were not specified; and lastly, as it implied a censure neither ascertained to be merited by inquiry, nor substantiated by evidence. He would therefore move the previous question.

Captain *Bertie* said, that the Chancellor of the Exchequer had, in the last debate, declared, that neither meritorious services nor successful enterprise gave a captain a claim to his flag. Justly, therefore, might it be asked, from what circumstance could such pretensions arise? The captain reasoned upon the injustice of denying officers, who had served honourably, and without the smallest impeachment of professional conduct, that rank to which they had naturally looked up as the sure reward of their services. He considered the laying of deserving officers aside, to be a wanton degradation and an unmerited disgrace, and therefore, the motion had his entire concurrence.

General *Norton* thought that every officer who distinguished himself in the trying hour of danger, had a fair claim to his rank, and that he ought not to be set aside from the promotion to the flag, without some reason being assigned for so violent an exclusion.

Lord *Apsley* argued against the motion on the ground of its injustice, appealing to the equity of the House, whether they ought to imply a personal censure against the first lord, when no person had imputed any sinister motive to him, as the principle of action that influenced the late promotion.

Mr. *Edwards* took notice of his relation, sir Charles Middleton having obtained his flag, and said, as far as that went, it was a proof of disinterestedness, since it was well known the first lord and sir Charles were not on good terms.

Mr. *Martin* said, he had hoped that ministry would have rendered the motion unnecessary, by proposing one of their own. Had that been the case, he would have given theirs the preference, but they not having done that, the hon. gentleman should have his vote, because he saw clearly, if the first lord had an uncontrolled right to select the objects of promotion, such officers as had seats in that House must either vote away their honour, or

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vote away the approbation of the minister.

Admiral *Hood* said, that the assertion, that officers who were members of that House must either vote away their honour, or vote away the approbation of the minister, was what he denied, and as often as he heard such an indignity cast upon that profession to which he belonged, he would repel it. He had, in the former debates, given his silent vote; but he could not upon the present occasion. He had documents in his pocket to prove, that in almost every promotion to the flag, more captains had been passed by than included. He meant not to enter into a discussion of the merits or demerits of those who had been either passed by or included in the late, or in former promotions: such discussions were invidious, and from the argument. He stood merely upon the matter of fact; the fact was as he had stated it, and no complaint had ever been made of injury to the service by such a practice having obtained. So far was he from thinking that it became him as a military man to support the motion, that he would vote against it for that very reason. He considered the discussion of such topics in that House as extremely mischievous and improper, and, therefore, no consideration should induce him to support the motion. In order to prove that no injury had resulted to the service from the practice of laying aside some officers, when others were promoted to the flag, he adverted to former periods, and reminded the House of the gallant actions of Boscawen, of Hawke, of Anson, of sir George Pocock, who had been so successful at the Havannah and in the East Indies, and the intrepid sir Charles Saunders. In the land service also we had seen that great general the duke of Marlborough, the brave Granby, the enterprising and spirited Wolfe, and the calm and steady Amherst.—He would drop a sable curtain over the last war, and advert to the subject of the motion. The noble first lord of the Admiralty stood high in the opinion of his profession, as a brave and skilful officer; he had hitherto continued unimpeached in honour, and unimpeached in point of integrity. It was not likely, therefore, that his conduct in the late promotion would have been actuated by any indirect motive. It was impossible for him to imagine that an officer who had trodden the deck of honour, could, upon his holding the naval administration, plunge into the sink of corruption.

Mr. *Loveden* said, that great stress had been laid on gentlemen not having imputed the late promotion to improper motives in the first lord of the Admiralty. It was extremely difficult to prove that any person was actuated by an improper motive, but as much mischief might arise from an error of judgment as from the influence of corruption. He begged to know if error in judgment was nothing? For what was admiral Byng condemned and executed?

Captain *Webb* said, that the mention of admiral Pocock and his successes at the Havannah and in the East Indies, reminded him of a captain who had shared in the hardships of those services, and who was pining within doors in his own house, and breaking his heart at having been passed by, and that gallant, experienced, and deserving, but neglected officer, was captain Staunton.

Admiral *Hood* said, he should be extremely sorry if the motion were to pass, but if it did, he certainly would himself move, that captain Staunton should be made an admiral.

Sir *Peter Parker* acquitted the first lord of any undue motive, but said, there might be error in judgment, occasioned by the misrepresentation of those on whom he relied for information. He thought that officers who had served with honour and without impeachment had a claim to their rank. The Admiralty might or might not employ them as they thought proper. The former seemed to be a fair expectation on the part of the officers so circumstanced; the latter, a constitutional exercise of discretion and authority in the Board, who were responsible for the officers they employed. He reminded the House of the obligations of the country to those who dedicated their life to its service, and pointed out the impolicy of dispiriting the officers of the navy, which had ever been considered as the constitutional bulwark of the kingdom.

Mr. *Courtenay* considered the long notice given of the present motion, to be a signal thrown out for the noble lord, to induce him to take some step to prevent the necessity of bringing it forward. He had entertained an idea, that the noble lord would have noticed the signal; but, he was happy to find, that although so much time had been given, the noble viscount, with his usual intrepidity, and his well-known obstinacy and firmness, had refused to take any one step to pre-

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vent it. It had been said, that no improper motives had been imputed to the noble lord as the spring of his conduct in the late promotion. He would not impute improper motives to the noble lord; nay, he would pledge himself to prove that the noble lord had acted upon motives the most meritorious and praise-worthy, and such as were deserving the thanks of the House and the country. He differed from Mr. Fox, who had remarked, that he approved of the noble viscount's conduct only while at sea, and that all his merit vanished when he came ashore. This was partial; this was unjust; it was comparing the noble viscount to one of those amphibious birds, who could not fly half a yard, but while their wings were wet. The idea was derogatory to the merit of that Anti-Antæus, that powerful giant, the first lord of the Admiralty. He was equally a great statesman and an able admiral. In the first place he would ask, what could more readily induce the navy to a strict obedience of the first lord, and to a rigid discipline, than the mode of selection adopted by the noble lord? It was a praise-worthy and meritorious act, to destroy that spirit which had for a long time prevailed in the navy, of standing upon merit for promotion, and not caring for the first lord of the Admiralty. Such was a spirit that ought never to be encouraged; for, if it was, it might arrive to such a height that nothing but merit would be considered, and there would be an entire end to that discipline so very necessary to be preserved. It was greatly praise-worthy in the first lord to endeavour to polish the rough manners of the British seamen, and to teach them civility, and if, at the same time, he taught them a little servility (a quality which, he must confess, they had hitherto appeared somewhat deficient in, and in which the French officers greatly surpassed them) it would be so much the better. His lordship's passing over the gallant and meritorious captains Balfour and Thompson, argued his consummate wisdom as a statesman; for, what ideas must such a step have excited in the minds of foreigners? It must have given them the highest idea of the courage of our country; it must have made them say, "We will not go to war with that nation; for they are a nation of heroes; we have seen the great actions of captains Balfour and Thompson; but what signifies that, they are set aside; there are men to be found of greater ability and bravery than they; it would be a folly, therefore, to go to war with such a nation." His lordship's setting aside those officers who had been employed in the impress service, had marked his constitutional endeavours to put an end to so unconstitutional a proceeding, by stamping those officers who disgraced themselves by such an employ with the greatest marks of his displeasure. —It had also been urged against his lordship, that he had acted improperly in passing over those officers who had been honoured with the thanks of that House; but, in that also his lordship greatly merited praise. It was sufficient, on that occasion, for his lordship to have passed over those officers on account of the presumption exhibited by the House of Commons in giving their thanks to those officers for their conduct. It was an unpardonable interference in the House with the business of the Admiralty; but his lordship had not passed them over on those grounds; he had taken up the matter philosophically, and well knowing the captains had not much time to peruse productions of ancient philosophy, he had undertaken to teach them, in a summary way, the best philosophy, to be content with their own virtue and their merits, and to learn that virtue was its own reward! The noble lord wished those officers to enjoy themselves with the pleasing consolation of having done their duty, of having advanced the interests of their country, and of having obtained the approbation of their countrymen. Such he considered as the best rewards that could be received. His lordship wished them to disregard the more trifling matters of sinecures and pensions, as beneath their notice, and fit only to be enjoyed by ministers, and by officers their partizans, who had not the more honourable possession, the approbation of their country. The country ought sincerely to rejoice that the first lord was a philosopher, and of so enlarged a mind as to endeavour to make philosophers of all the officers of his Majesty's fleet.—Mr. Courtenay then seriously reprobated the mode of selection adopted by the first lord. Had not a professional man been president at the Board, the partiality might have appeared less glaring, but he had ever considered a naval officer as the guardian of the honour and feelings of his brother officers. Such had lord Anson ever shown himself, such lord Hawke! such sir Charles Saunders! such lord Keppel! and such he had expected lord Howe would have proved; but

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his expectations had been miserably disappointed. He should most heartily give his vote for the original motion, expecting that, if it passed, it might bring to light the true cause why those gallant officers had been so disrespectfully passed over, and so cruelly degraded.

Sir *James Johnstone* held it to be an undeniable principle, that the House had an undoubted right to exercise its inquisitorial powers in respect to the conduct of every branch and department of Government. They had a right to inquire into the conduct of the Crown, of the first Lord of the Treasury, of the first Lord of the Admiralty, and of every other executive officer. He lamented that the House should be forced to agitate any such question as the present. But though he did not come far enough north to be a prophet, he would, on this occasion, venture to predict, that such consequences as had been stated by those who argued against the question, would not follow, if it were agreed to; but that, on the contrary, there never would be occasion for such a motion again; because no first lord would take upon him in future to make such a selection of Admirals. He reprobated the argument, that there was an asylum and a provision for those officers, who had been passed by, and who had not obtained their flag, in the superannuated list; and said, why not give them the additional trifle that they would be entitled to as rear admirals? The amount of that addition to sixty officers would not be above 7000*l.* a-year, and, was such a paltry sum as that any consideration, when set against the spirit and harmony of the service? Above 150,000*l.* a-year was given to the officers of the land-service, and ought the House to grudge a few additional thousands to the officers of the navy.

Mr. *Henniker* said, that it did not become the House to say who should, or who should not be promoted to a flag. The promotion was properly lodged in the Board of Admiralty; but being once made, it then was not only not improper in that House to institute an inquiry, if they thought it an abuse of power, but it was their duty directly to introduce an actual investigation. The promotion had been made, and therefore it was a fair ground of parliamentary discussion. He could not take upon himself to judge of the characters of officers, but he was induced to believe, that the officers who had been passed by, were officers of great merit, and entitled to their flags.

Captain *Macbride* said, that he must object to an honourable admiral's declaration, that on former promotions many captains had been passed by, as well as on this, and that no harm had occurred to the service. In the first place, he denied that there ever had been a promotion where such men had been passed by, as had been passed by on the late occasion, or where men who had been set aside had such powerful claims to rank. The captain spoke of the late promotion as establishing a bad precedent, and said, when the promotions that were alluded to by the honourable admiral took place, there were so few admirals, that ten or fifteen years service in a manner entitled a man to his flag; but, at present, officers must serve thirty or forty years, before they stood any chance of obtaining their flag, and it was no wonder, after so many years hard service, that men were worn out. How severe was it, then, to declare that no man should have a flag but those only who were able to do active duty. He stood the fortieth on the list of captains himself, and there were 25 of the captains before him who could not expect the flag, having no claim to it, as they had not been at sea all last war, and therefore came within the description of the order of council. By the time of the promotion reaching his turn he might be worn out, and consequently thrown aside. The hon. admiral had enumerated a long list of heroes, who had made this country renowned by their glorious achievements, and had stated their names as proofs that no injury had been done by the selection of the Admiralty-office. Among other names, he had mentioned that of sir George Pocock, as brave an old admiral as any man in the service; but, why had not the hon. admiral told the House that sir George tore the cockade out of his hat, and quitted the service in resentment at having a young officer put over his head? It was a fact, and the House ought to know it. There was another circumstance of a very remarkable nature, which he wished to state to the House. He looked upon the 12th of April with the utmost reverence, because he thought it the most important action of the late war. In that action two officers then opposite to him had signalised themselves, and received rewards in return for their services, the one being ennobled and

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the other made a baronet, which honours every body in the service thought they justly merited. Monuments in Westminster-abbey had been voted for two others, who died gloriously in the action, while captains Balfour and Thompson who had equally distinguished themselves had been kicked out of the service. What was the inference to be drawn from this, but that these two captains had not done their duty, and were therefore deservedly disgraced? If they had not done their duty it ought to be declared, and therefore he called upon the noble lord and the hon. baronet to rise up and declare whether captains Balfour and Thompson had done their duty or not. Captain Macbride enforced this appeal to lord Hood and sir Edmund Affleck, and reminded them, that they ought then to support those who had supported them in the day of battle, since they must know, that unless their efforts had been well supported, the victory could not have been obtained.

Sir *Edmund Affleck* was extremely happy to be called on to do justice to the characters of captains Balfour and Thompson. They certainly had done their duty in the action of the 12th of April, and done it ably. With regard to the other officers, it had been his intention in the last debate to have risen to speak, but the hon. mover had so fully gone into their merits, that it rendered what he intended to say unnecessary. As to capt. Thompson he had known him for nearly forty years, and knew him to be as brave and skilful an officer, and as honest a man as any in the service. He could not account for his having been passed by in the late promotion, and was as much surprised when he was passed by as he should have been to have been passed by himself.

Mr. *Drake* said, that after what he had heard, he wondered at a shadow of opposition to the motion. He called upon the House, if they were not enslaved by power, if they had not totally resigned their senses, and abandoned the free exercise of their opinions, not to hesitate a moment in voting that night with the navy.

The previous question being put, That that question be now put, the House divided:

	Tellers:	
Yeas	Captain Macbride Lord Maitland	169
Noes	Mr. John James Hamilton Mr. Steele	220

So it passed in the negative.

Debate in the Commons on the Wool Exportation Bill.] May 1. On the motion for committing the Bill "to explain, amend, and reduce into one act, several laws now in being for preventing the exportation of wool."

Sir *John Thorold* rose and said:—Mr. Speaker; Far from presuming that any thing I can urge will add weight to the very convincing arguments adduced by the learned counsel on a former day, against the future progress of this bill, but merely to perform a duty which I owe to my constituents, whose interests will be so materially injured thereby, I beg leave to solicit the indulgence of the House for a few moments. It seems to have been the invariable policy of the manufacturers to exaggerate the annual illicit exportation of wool; conceiving, no doubt, that a complaint of their being deprived from manufacturing a very great proportion of the annual growth would entitle them to a continuance of the partial monopoly they had so long enjoyed, who, when called upon to ascertain the amount, hitherto contented themselves with alleging, that, although the fact, from its nature, was incapable of absolute proof, it was nevertheless unquestionably true. The manufacturers of the present day appear to me to have acted with somewhat less caution; who (quitting this ancient and very useful mode of defence) have undertaken to prove that 13,000 packs were annually exported, and, on that ground, modestly requested a repeal of all the existing laws, in order to substitute a new law of their own. For which purpose they have adduced copies of entries from the ports in France, returns of seizures from our custom-house, and with some other incidental seizures, endeavour to form their total of 13,000 packs; but which, from the best examination I have been able to give their statements, does not amount to near 3,000 packs. Besides, these copies of the French entries having been procured by an anonymous French agent, hired by an interested manufacturer, come with very questionable authority, and ought to be received with great caution. With respect to the witnesses who were examined at the Committee, they did not even pretend to speak to facts from their own knowledge; and, although they had heard much, and declared they believed all they had been told, yet such narratives will, I presume, scarcely be deemed worthy the

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name of evidence. Fortunately, Sir, for the cause of justice and truth, many authentic documents have since been procured from France, which clearly prove, that in no one year since the peace, the annual importation into that country has ever reached one-tenth; and since the ratification of the Commercial Treaty one twenty-fifth part of 13,000 packs. With respect to the Bill, should it be contended that it is most prudent to abide by those laws under which this nation has so long flourished, then, I would ask, why do the manufacturers wish to alter them? Should it be said, to amend them, I would again ask, ought they not first to have proved them inefficient, and whether the exportation of 1100 packs in one year, and 280 in another, sufficiently proves their inefficiency? for I am yet to learn, what other proof has been adduced! Should it be alleged, that this Bill, by exchanging the punishment from transportation to imprisonment, alleviates the severity of the existing laws—it is granted; but if the alleviation of one punishment is to be accompanied by the introduction of divers new severities, the wool-grower earnestly entreats to be excused from accepting this proffered act of mercy, which would only serve to remind him of the notable instance of lenity in the Jewish mode of punishment, which remitted one stripe while it rigorously inflicted thirty-nine. But this Bill is perfectly harmless! Is this Bill, Sir, so perfectly harmless, whose avowed principle is partial monopoly? which rashly presumes every wool-grower near the sea necessarily a smuggler, and, after entangling him in infinite and unintelligible regulations, subjects him to grievous fines and imprisonment! robs him, in some instances, of his birthright as an Englishman, of trial by jury; encourages false accusations by removing the burthen of proof from the informer, and by rewarding him with the whole amount of enormous penalties! Now, some person, perhaps, may ask, while the manufacturer takes such special care of the wool-grower, "Quis ipsos custodes custodiat?" Oh, Sir, tis a foolish and a fruitless inquiry! The manufacturers are all honourable men; and, therefore, this Bill acts wisely, by leaving them at home in perfect security and repose, without suspicion or restraint. If this be justice and lenity, what is oppression? Yet such, Sir, is the justice and lenity of these gentlemen, who, leaving their looms and their warehouses (their proper sphere), aim to prove themselves equally well qualified to make laws and broad cloth for their country. But entertaining, as I do, very considerable doubts, whether any abilities can insure success in occupations so widely differing, I shall move, "That the further consideration of this Bill be postponed to this day three months."

Mr. *Duncombe* defended the Bill on the plea of expediency and policy. He entered into a discussion of the nature of the evidence of Mr. Young and sir Joseph Banks, speaking of them both as men deserving great respect, but as witnesses who had avowedly declared their opinions, grounded on the information of others, instead of stating facts within their own knowledge. He reasoned upon the probability that the evidence adduced was in a great degree fallacious, and contended, that the manufacturers had ever proved themselves the best friends to the wool-growers, and that, therefore, if the present Bill even gave a small turn in their favour, it was a turn that the wool-growers ought not to be unwilling to grant. He quoted a sentiment of the late sir George Savile on the subject of the breed of sheep and the culture of wool, who had spoken of it in a style so peculiarly his own, and after stating how the animal was roasted, boiled, stewed, and dressed in a variety of modes, had declared, that Halifax, and the neighbouring manufacturing towns of Yorkshire, cloathed the hills of Lincolnshire, and, by their encouragement, gave the wool-growers of that county that support, without which they could not so long and so effectually have prospered.

Mr. *Harrison* considered the Bill as an unnecessary boon to the manufacturers at the expense of the wool-growers. He stated the partiality of the existing laws with respect to the latter, to whose prejudice they materially operated; but the wool-growers had patiently submitted to them, hitherto, from a liberal desire to give every possible encouragement to the manufacturers. All that the wool-growers now desired, was to be suffered to remain in the condition in which they had stood for some time past, and not by the introduction of a new law to be put into a more irksome and unjust situation. With regard to Halifax, and other manufacturing towns in its neighbourhood, cloathing the hills of Lincolnshire, it was the fact; but, it ought to be remembered, that the wool-growers of that county sub-

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stantially paid for the benefit, since they sold their wool to the Yorkshire manufacturers at half the price they could get for it abroad.

Mr. *W. Stanhope* reminded the House of the extreme difficulty of ascertaining the real quantity of wool exported, since it was the interest of the French to conceal the amount of British wool that was smuggled over, the welfare of their country depending upon their obtaining as much as possible. He also pointed out the additional difficulty arising from the consideration that none but Frenchmen could truly know the fact, and that they could not be expected to come forward as voluntary witnesses.

Mr. *F. Honeywood* spoke against the Bill, and particularly objected to the restrictions imposed on the counties of Kent and Sussex by one of its clauses.

Sir *R. Clayton* said, that the woolgrowers of Surrey thought the Bill a sacrifice of their interests to those of the manufacturers.

Mr. *Rolle* defended the Bill, as combining the existing laws in one statute, and rendering them more efficient and intelligible.

Mr. *Hussey* said, that although it was undeniable that in a commercial country like this, the manufacturers could not be too much encouraged, and although the Bill would add somewhat to that encouragement, yet it would not turn out to bear hardly on the landed interest. In illustration of this, he reminded the House of the small proportion the value of the wool of a sheep bore to the value of the flesh of the animal. That circumstance, alone, proved that the culture of wool was by no means the first object of those who bred sheep. He also reasoned upon the probable effect of the discouragement of our manufactures; one fatal consequence would be a decrease of the population of the country, and that would necessarily lessen the consumption, and reduce the price of mutton, and thus lower the value of sheep; an effect which the land owner would feel much more severely than a trifling reduction of the price of wool occasioned by enforcing the prohibitions against smuggling wool out of the kingdom. He quoted Smith's Wealth of Nations in support of his argument.

Mr. *Powys* neither approved of the Bill, nor of the principle of the existing laws, which it was designed to enforce. He took notice of what had been stated, that the present system of laws respecting wool was a complicated one, and that this bill was necessary to simplify and elucidate it. He denied that it did either the one or the other: so far from it, it rendered the law, if possible, more complicated than before. He recommended the withdrawing the subject till the next session, when it might be taken up by his Majesty's ministers, and proposed in a committee of the whole House, where the subject might be fully gone into, the laws in being undergo a revision, and such a bill be framed as should not create a separation of interest between the manufacturers and the land-owners, but reconcile both and meet with general approbation.

Mr. *Windham* considered the Bill to be so necessary to the prosperity of the manufacturers, so consonant to the principle of the existing laws; and so little likely to injure the wool-growers, that he strongly usged the propriety of letting it go to a committee.

Mr. *Pulteney* said, that whenever a manufacture diffused itself into many hands it was the uniform custom to raise a cry, that the manufacture was lost. The fact was the reverse; the wider the manufacture diffused itself, the greater the national benefit; but then, undoubtedly the extension was an injury to individuals, as it lessened the size of their profits, and prevented them from acquiring enormous wealth so early as could be done while a manufacture remained in a few hands. This sort of emulation and extended rivalship was the true spirit of commerce; it was that which made a country great and powerful, and not the sudden riches accumulated by a few persons who had engaged in particular manufactures. People ought not, therefore, to be alarmed at a clamour raised by interested persons, who, because they could not acquire as much profit as heretofore, were the first to cry out, that their branch of manufacture was destroyed. No one accustomed to look into the pamphlets that had at different periods been written on the subject of trade and manufacture, could be a stranger to these facts. He declared he thought the House would act wisely in abiding by that policy which had governed the kingdom for so many years with success, and not rashly introduce a new experiment.

Mr. *Drake* rejoiced that the House had taken up the matter as they had done, and that gentlemen, without going into a series of prolonged orations, had pithily deli-

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vered their sentiments upon the subject. He wished the Bill to go to a committee, where the objectional clauses might be amended; and took occasion to mention his design of bringing in a bill for the better regulation of chimney-sweepers, a description of persons who had shown themselves so merry on the present day in every street of the metropolis.

Mr. *Addington* spoke in justification of the clauses restricting the counties of Kent and Sussex in a particular manner, by observing that those counties being nearest to the coast of France, it was more probable that attempts would be made to smuggle wool from them, than from any other counties.

Mr. *Marsham* contended, that it was unjust and partial to lay greater restrictions on the two counties than on any other, but admitted that had his constituents come to parliament, and desired a repeal of the existing laws, it would have been a good reason for subjecting them to additional restrictions.

Sir *Richard Sutton* said, that when the Bill was first introduced, conceiving it to be similar to one before introduced, he had objected to it, because the former bill contained clauses so contrary to the free spirit of our constitution, that he could not think it fit to receive the sanction of that House. He had since had an opportunity of examining the present Bill, and he found it so materially altered and amended that it met his approbation.

Mr. *Pitt* was glad to find that there was not likely to be any difference between the commercial and the landed interest on the present occasion; but that, at the bottom, every gentleman, let him have taken which side of the question he would, had wished to preserve those interests, as they ever ought undoubtedly to be considered, as one and the same. He observed, that as it was admitted, on the one hand, that the wool-growers had but little to hope, and contended, on the other, that the manufacturers had much to fear from the rejection of the Bill, he thought it more wise to keep pace with the fears which were great, than with the hopes which were avowedly little: and, therefore, he deemed it right to let the Bill go to a committee, where it could be discussed clause by clause, and such parts of it as should, upon investigation, appear to be too harsh, might be either altered or omitted. From what he understood to have been stated at the bar, it did not appear to him that it would be at all improper to let the Bill go to a committee. He took notice of what had been said relative to the question, whether it would be wiser to allow an exportation of wool under certain duties, or to enforce its prohibition as effectually as possible. That question had no connexion with the Bill, nor did it make any part of the present consideration; but he could not help objecting to the argument of one hon. gentleman, who had declared that he approved of the existing laws, because they were not enforced. To suffer any illegal act to be committed, was, in his opinion, extremely unwise, because one breach of the law led to another. Thus, smuggling of wool was connected with other illicit traffic; the vessel that carried out a cargo of wool illegally brought back a freight of brandy illegally; and thus, by conniving at smuggling in one instance, they encouraged it in another, to the additional prejudice of the revenue.

Sir *Peter Burrell* was happy to hear from the right hon. gentleman that the question, whether it would be wise to abandon the policy that had so long governed the country, in regard to prohibiting the exportation of wool, was not at all affected by the present bill. With regard to the present question, it was evident that every gentleman had assumed the fact, that 13,000 packs of wool were exported annually; for no such fact had been proved at the bar. The utmost that had been made out in evidence was 1300 packs. It behoved those who brought in the Bill to make out their case; but, for his own part, he must contend, that they had entirely failed, for which reason the Bill ought to be rejected.

Mr. *Burton* said, that in his opinion, the Bill instead of enacting new and more rigorous restrictions than those contained in the existing statutes, changed the punishment of offenders convicted from transportation to the more mild sentence of fine and imprisonment.

The House divided on the motion, "That the debate be adjourned till this day three months:"

Tellers:

YEAS	Sir John Thorold Mr. Harrison	47
NOES	Mr. Phelips Mr. Rolle	112

Ordered, that the Bill be committed on the 8th.

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May 19. On the order of the day for the third reading of the Wool Bill, and the question being put, "That the Bill be now read a third time,"

Sir *John Thorold* said:—Sir; having on a former occasion expressed my sentiments with respect to this Bill, I shall now detain the House but for a single moment. If the inefficiency of the existing laws had been clearly proved, by an export of wool so considerable as materially to injure the manufacturers, it might have afforded a reasonable ground for the attempt to alter them. Let us consider then, what has been proved: the annual export, for five years, of 1100 packs, and in the last, of 480; fewer seisures and convictions than under any other similar penal statute; and at present, a larger export of woollens than in any former period; the plea therefore of a necessity for alteration, cannot, I think, fairly be urged. I shall not trouble the House with any discussion, whether trial in a summary way be preferable to a trial by jury? Whether the power granted to justice, to impress, fine, and imprison witnesses, be a mild measure? Whether a wharfinger ought previously to enter into a bond of 200*l.*? Or whether the gracious grant for a limited exportation of tobacco-pipe clay will sufficiently atone for, or be able to cover the multitude of sins under which this miserable Bill now labours. I object, Sir, to the principle of this Bill, which I contend to be incorrigibly bad, originating in the mean and rapacious spirit of avarice and monopoly, and consequently producing acts of injustice and oppression, a spirit which has uniformly pervaded and contaminated all the legislative attempts of the manufacturers, from the first session of their little senate at Exeter in 1786, to the dissolution of their festive board at the Crown and Anchor tavern in the Strand. To-morrow, Sir, the highest tribunal in the kingdom will again assemble, for the purpose of inquiring, whether the rights of humanity may not have been invaded in the East; a tribunal convened at the request of this House. The House also stands pledged, early in the next session, to take into consideration, how far it may be expedient to abolish slavery in the West Indies. What then will be thought of our sincerity and consistency, if, whilst we are so anxious to dispense the blessings of freedom abroad, we should at the same moment forge new chains for the establishment of slavery at home? Should this Bill pass into a law, our liberty, and a security in our property, hitherto our just pride, and the envy of our neighbours! will become a fit subject only for their derision. For instance, a Frenchman may then say to an English woolgrower, "Your wool is certainly your property while it remains useless in your chamber; attempt to remove it, or sell it to the best advantage, and an exciseman will soon convince you that your property will terminate in a fine, and your liberty expire in a dungeon. Talk no more to me, I beseech you, of your English rights and property, of your *libertas et natale solum*. Fine words! I wonder where you stole 'em." To these humiliating taunts, the manufacturers may perhaps be able to give some answer; because they have prudently exempted themselves from being accountable to any one, for the purpose to which they may apply their wool; but they have at the same time effectually disabled the wool-grower from a possibility of reply. The revival and recognition of obsolete penal statutes, founded on principles of despotism is of itself a very serious evil. With a view to local accommodation you may alter, soften, or meliorate the clauses of this Bill; but to what purpose will it be, whilst the principle remains? From the polluted source of despotism the pure stream of liberty never can flow. Esteeming it, Sir, a duty which I owe to my country, to resist a principle so injurious to the rights, and so insulting to the feelings of every Englishman, I shall therefore move to leave out the word "now," and add the words, "upon this day three months."

Sir *Peter Burrell* argued against the Bill, as calculated to promote the interests of the manufacturer at the expense of the wool-grower, and contended that it would necessarily discourage the growth of wool, raise the price of mutton, and increase the price of labour.

The question being put, "That the word "now" stand part of the question, the House divided:

Tellers:

Yeas	Mr. Phelips - - - - -	72
	Mr. Rolle - - - - -	
Noes	Sir John Thorold - -	24
	Sir Peter Burrell - -	

The Bill was then read a third time.

Debate in the Commons on the Bill for

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the Protection of Stocking Frames.] May 5. The House having resolved itself into a Committee on the Bill "for the better and more effectual Protection of Stocking Frames, and the machines, or engines, annexed thereto, or used therewith, and for the punishment of persons destroying or injuring of such stocking frames, machines, or engines, and the framework-knitted pieces, stockings, and other articles and goods used and made in the hosiery or framework-knitted manufactory."

Mr. *D. P. Coke* stated, that it went to the creation of a new capital felony, and was therefore of material import. The Bill had three distinct objects, which he would shortly explain to the committee. In the town of Nottingham there were about 3000 knitting-frames used in the stocking manufactory: and, as the law now stood, if any person cut or destroyed a frame, it was only a misdemeanor against the person doing the injury. One object of the Bill, therefore, was, to make it a capital felony, without benefit of clergy, to cut or destroy any knitting-frame. At present, likewise, it was usual for the frame owner to lend his frame to a workman in the manufactory; if that frame was redemanded, the workman had it in his power to keep it, nor could the right owner recover it but by action of trover, and, perhaps, the man detaining the frame might be a mere beggar; he meant, therefore, to enact, that every person detaining a frame from the right owner more than six days after it was claimed by him, should be liable to pay a fine of 20 or 40*s.* to be levied by a justice of the peace, who should have power, in case of non-payment, to commit the party to the common gaol for a period of time not exceeding three months, nor less than one. Another object of the Bill was, in case any person should sell a frame, the property of another, or make away with it, he should be deemed guilty of felony, and liable to transportation on conviction. A farther object of the Bill was to declare any person convicted of breaking into the house of another, with an intent to cut or destroy his frames, guilty of felony without benefit of clergy. Mr. Coke stated to the Committee the frequency of the commission of all the several above-recited offences in the town of Nottingham, and the total inefficacy of the present laws for their prevention. He therefore submitted the Bill to their deliberate decision, at the same time reminding the Committee, that he had proposed nothing new, since the Act of the 21st Geo. 1, subjected persons convicted of similar offences in respect to the woollen manufacture, to the same severe penalties. The occasion of the passing that Act, the Committee might possibly recollect. A great number of foreigners came over and settled in the weaving branch, in Spitalfields. A violent clamour arose among the English weavers thereupon; and they exclaimed, that foreigners were come over to take the bread out of their mouths, and went in a large mob, and riotously cut all the foreigners looms to pieces. The legislature of that day immediately took notice of the transaction, and passed the Act in question.

Mr. *Francis* begged to know whether the statute had ever been carried into execution, and whether it had produced the desired effect? He objected to the making the circumstance of any person's going into the house of another with an intent to cut and destroy his frame, a capital felony, declaring that he thought it impossible for any man to pronounce the intent of another. He also expressed his doubts, whether the multiplication of sanguinary laws was not at once a disgrace to the country, and an evil, and if such laws were passed, and were to be merely nominal laws, and never be carried into execution, whether they did not do more harm than good; but above all, he wished to know, whether the existing laws of the same nature had answered their end, and produced any effect?

Mr. *Coke* desired, that the 21st Geo. 1 might be read; which having been done, and the words "frame-work knitters" occurring in one of the clauses, he said, he was glad it had been read, because it confirmed him in his opinion, that the laws in existence did actually reach the stocking manufacturers, but without proceeding to a sufficient length. The present Bill meant to protect them and their manufacturing machines and instruments from those injuries to which, under the existing laws, they were still liable. With regard to the hon. gentleman's question, Whether the existing laws had produced the desired effect? as he had not heard of any complaint from the wool-combers, he took it for granted that they had. The present Bill held out a capital punishment *in terrorem*, in order to deter men from committing such offences; he wished not that any person should be hanged under

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the authority of the Bill. Heaven forbid that any should! but the Bill was meant to operate upon the fears of the many, who would not otherwise abstain from practices so unjustifiable in themselves, and so injurious to the interests of the stocking manufactories. With regard to the clause making it a capital felony to break open a house, with an intent to cut and destroy the frame or frames of another; if a man broke into his house, with an intent to do an illegal act, he ought to be punished severely; for the crime in him was not the less because he had not been enabled to commit it altogether; the intent was his crime, and for that he should suffer; and as to its being his intent, that was a matter for a jury to decide upon, and gentlemen need not to be afraid of a jury's too often finding a person guilty who was so charged, because it was in general a matter of extreme difficulty to prove an intent, and juries were too honest to bring in a verdict of so fatal a nature, without having first had sufficient proof adduced to convince them that the verdict was merited.

The Committee proceeded with the *Bill*, and filled up several of the blanks. When they came to the clause making it felony and a transportable offence to sell or make away with another person's frame,

The *Attorney General* said, that the common law held the parting with the property of another to be a breach of trust, and not a felony. There was one particular, indeed, in which the legislature had thought fit to declare a breach of trust to be a felony, and that was the making away with the furniture of ready-furnished lodgings; but there the law had pronounced a simple felony or larceny, not of necessity incurring transportation on conviction, but subject to an arbitrary punishment at the will of the court. He was ready to agree, that in the instance of making away with the knitting-frame of another, the common-law remedy, by an action of trover, did not amount to an adequate remedy; but then, he saw no reason for going from that all at once to absolute transportation, which was certainly the next punishment to death itself. He should propose, therefore, to put it upon the footing of robbing ready-furnished lodgings, and declare it punishable at the discretion of the court as a felony or a larceny.

Mr. *Coke* argued against the objection, contending that the cases were not analogous or equal; for robbing ready-furnished lodgings, and stealing or making away with the knitting-frame of a stocking manufacturer, differed essentially in their respective degrees of importance. There were not many such persons as major Semple, who would sell the furniture of their lodgings; but there were thousands who would sell their frames.

The amendment was agreed to.

Sir *James Johnstone* said, that as the Bill was to extend to Scotland and create new crimes there, he hoped they should have English justice to try them by.

The chairman reported progress, and asked leave to sit again.

May 14. The Bill being again committed,

Mr. *D. P. Coke* observed, that as the Bill contained a clause by which it was intended to create a capital felony, he had moved to report progress, in order to give gentlemen an opportunity of considering how far such a measure was necessary or proper. He was not speaking his own sentiments, but those of other people; the manufacturers of Nottingham imagining, that if breaking into a manufacturer's house by night, with intent to cut or destroy any frame, or work in a frame was made a capital felony, that offence would never again be committed. They had therefore instructed him to propose such an alteration in the law, and to remind the House, that there was an act of parliament in existence, which made it a capital felony, to commit a similar offence in any woollen or silk manufacturer's house in Spitalfields; and as the frames of the Nottingham stocking manufacturers were of twice the value of the frames used in the woollen or silk manufactories of Spitalfields, they hoped the House would have no objection to extend to them the advantage of a similar law: of this at least they were certain, that if such an extension were denied them, the statute in favour of the Spitalfields manufacturers ought to be repealed.

Mr. *Grenville* said, that the remarks of the hon. gentleman, were, in his opinion, a convincing proof that he ought to resist the proposition, and that it was high time for the House to set its face against any extension of capital punishments, unless in very particular cases; for it was evident, that if the legislature permitted such an extension, in ever so strong an

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instance, it was directly made a precedent. For these reasons, he opposed the filling up the blanks of the clause, with the words, "shall suffer death, without benefit of clergy."

The question being put, it was negatived.

Expense of the Buildings at Somerset House.] May 5. The Report from the Committee of Supply was brought up. Upon the Resolution, "That 25,000*l.* be granted to his Majesty upon account, towards carrying on the building at Somerset-house,"

Sir *John Miller* rose to complain that there was not a proper account of the money already expended in the erection of the buildings at Somerset-house. The estimate signed by sir William Chambers was too loose and unsatisfactory to give the House the necessary information. No private gentleman would suffer his architect to proceed with a large building, and put him to additional expense, merely upon having presented him with such a statement. Sir John read the particulars of the estimate, and commented upon them, observing that there were large arrears stated to be due. He wished to see the vouchers for what had been already expended, and the plan of what as yet remained to be done; since, without that House having it in its power to administer any check or form any opinion upon the subject from authentic documents, it appeared to him that sir William Chambers might go on from year to year, laying foundations for future erections, and come regularly, and ask for 25,000*l.* as his annuity. Although the House were not architects, they had a right to look into the public expenditure. He was willing to admit, that the buildings did credit to sir William, and credit to the country; but he, nevertheless, could not but complain of there not being any vouchers of the expenditure before the House.

Mr. *Pitt* said, that the money voted, from time to time, for carrying on the building, showed undoubtedly the liberality of the country, but that the House would recollect the plan of it had been several times before them, and that the mode of voting the money by annual sums had been long since settled by themselves. He had not the smallest objection to their having any papers that gentlemen might desire to see upon the subject, but he apprehended that the House was not the proper place to examine and check the accounts. They would call to mind, that every sum voted was issued upon impress, on account, to sir William Chambers, and that he would necessarily have to discharge himself ultimately, by producing before the auditor his vouchers, from whom, like every other public accountant, he would not be able to obtain his *quietus*, without having in a satisfactory manner proved, that every shilling issued to him, had been fairly expended. With regard to himself, he had no personal feeling on the subject. The design had not originated with him, but, as the House well knew, long before he was in office.

Mr. *Hussey* declared, that he had often wished the House was burnt down; but he did not then wish it, because the right hon. gentleman opposite (Mr. Dundas) was to be in it; but he really thought parliament should give some check to the expenditure of such large sums, and it was not sufficient to say, that the architect would lay his vouchers before the auditor of the imprest when the whole building should be completed. There remained a great deal yet to be done, and there ought to be some one responsible person appointed to watch over, and superintend the progress of the building.

Mr. *Pulteney* said, that there never was any thing so entirely without a check as the buildings in question. There ought undoubtedly to be some means of control adopted; and especially when it was considered that sir William Chambers had 5 per cent. on all the money expended. It was his interest, therefore, to find as many ways of adding to the expense as possible.

Mr. *Rose* said, that Mr. Paine, one of the first surveyors in the kingdom, was appointed to watch over the buildings. The House would also bear in recollection, that before sir William had any sum issued to him, the expenditure of the sum last issued, underwent a strict examination.

The Resolution was agreed to.

Slave Trade.] Mr. *Pitt* said, that he would take the opportunity of so full a House to give notice, that, on the ensuing Thursday, he would call the attention of the House to a subject of much importance. Many petitions had been presented on the subject of the Slave-trade; and an hon. friend of his (Mr. Wilberforce) had, early in the session, given notice of his intention to bring forward some proposi-

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tion respecting it; but, unfortunately, he had been prevented by indisposition from attending to fulfil his intention, nor was it at all probable that he would be able to be present in that House previous to the prorogation. Indeed, if it were, in the present advanced period of the session, it would not be advisable that a business of such considerable importance should be gone into; but he nevertheless thought, that the session should not pass over, without some notice having been taken of the subject of the petitions in that House. He, therefore, would, on Thursday, move a Resolution, "That the House will, early in the next session, proceed to take into consideration the circumstances of the Slave Trade."

The Budget.] The order of the day for going into a Committee of Ways and Means being read, the House went into the said Committee, and the various accounts were referred to the same.

Mr. Chancellor *Pitt* now rising, remarked, that in laying before the Committee an account of the state of the revenues, and particularly of the receipt and expenditure for the year, he was more than usually anxious to gain their attention, and to show them how truly the calculations had been made, and in how small a compass of time the influence of the arrangement which was adopted had operated to the essential benefit of the nation. The statement could not fail to give satisfaction to every gentleman who heard him. He would not detain the Committee with any previous matter, but simply state the particulars of the account on both sides, observing, however, that a very considerable increase had taken place in the expenses of this year beyond the estimate that had been made in the year 1786, and which had been thought essential to our national prosperity and honour. These were not likely to occur again, and, in the mean time, it was a matter of no small satisfaction, that, notwithstanding these increased demands and temporary calls, such had been the beneficial effects of the late arrangement, and such the prosperous condition of the country, that ample provision had been made for all, without recurring either to a loan or to new taxes.

Mr. Pitt first stated the several articles of supply which had been voted for the service of the current year, and which consisted of the following heads, viz.

NAVY.	
18,000 Seamen..... £.	936,000
Ordinary	700,000
Extraordinary	600,000
Making a total of	2,236,000
ARMY.	
Guards and Garrisons, Plantations and Gibraltar, half-pay to the British and American Forces, to the amount of 228,000*l.*; Chelsea Pensioners 173,000*l.*, &c. making a total for the Army of	2,022,023
But from which sum 43,000*l.* is to be deducted, on account of stoppages from the troops abroad for provisions supplied them from hence.	
Ordnance.....	419,000
Expense of maintaining Convicts	34,000
Annual allowance to American Loyalists	74,000
Repayments on Addresses, &c.	46,000
Civil Establishments in America, together with the expense of Somerset-place, African Forts, &c.	90,000
Deficiency of grants in the year 1787	63,000
Estimated deficiency of Land and Malt	300,000
Expense of the Armament.....	311,000
Sum voted to pay the Prince of Wales's debts, &c.	181,000
Amounting in the whole to	5,779,365

A farther sum had been voted to pay off exchequer bills, and for deficiencies of several funds, to the 5th of April 1787, which latter would never occur again, in consequence of the Consolidation Act; but as both these sums, to the amount of 6,078,000*l.*, were taken on both sides of the account, he omitted them for the sake of perspicuity. In this account, it was, he said, to be observed, that, in the navy, there was an increase beyond what would be the necessary peace establishment, of 446,000*l.* In the army there was an increase of 233,000*l.*, and in the ordnance there was an increase of 61,000*l.* These increased demands were occasioned by the circumstance of our putting the distant possessions of the country into a state of more complete defence, by sending out 3,000 men more than came within the contemplation of the Committee, when they made the report of what would be

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the requisite peace establishment of the navy, and by the consequent extraordinary sum for supplying that body with provisions. These were not then to be considered as the permanent necessary expenses of the country; and to these there were several sums to be added which could not occur again, or at least could not make a part of our settled yearly expense. Such was the sum for the relief of the loyalists, the expense of the late armament, and the vote for the payment of the debts of the Prince of Wales. These sums added together, amounted to 1,282,000*l.*, which was to be considered as extraordinary, and was consequently to be deducted from the settled regular peace establishment of the country. It had been considered as wise to put every part of the British dominions into such a posture of defence as to ascertain to the country the blessings of peace, and he had the happiness to say, that though they had thus incurred an extraordinary expense of more than 1,200,000*l.* the receipts of the country had fully answered it, and that without abating from the plan which the House, in its wisdom, had established for the diminution of the national debt. That the same extraordinary demands would continue in future was not to be apprehended, though, undoubtedly, it would be some time before they could come to the real establishment which, in time of peace, had been thought sufficient for the country in the report that was made in 1786; but it was a happy circumstance, that the condition and prospect of the country warranted him in saying, that they should be able to provide for the extra expense in the years to come, as they had in this, without going to any new operation of finance.

Mr. Pitt then stated, that in order to defray these expenses, Parliament had already voted,

Land and Malt	2,750,000
That he should propose to the Committee to vote a farther sum, to be taken as the growing produce of the Consolidated Fund, between this and the 5th of April, 1788	1,845,000
Imprest monies, to be paid in the course of the year	200,000
Army savings of the year 1786	200,000
And a farther sum to be repaid by the India Company, on account of troops and victualling the fleet in the East Indies ...	500,000
Premium on the Lottery	258,000
Stoppages from the troops for provisions	43,000
Exchequer bills, and the sum voted for deficiencies, as stated in the supply	6,078,000

Mr. Pitt having gone through the whole of the account, and specified the several sums, stated that there was a clear surplus, this year, of 27,000*l.* over all the expenses, without taxes, without loan, and without interrupting for a moment the application of the million to the discharge of debt. The surplus had been applied, the armament had been provided for, the debts of his Royal Highness had been paid, the extraordinary expense of 1,200,000*l.* had been sustained, and there was a clear surplus of 27,000*l.* The extraordinary expense would, he feared, endure for two years more. It would take so long before they could be certain of coming to the permanent peace establishment. Perhaps he might state the farther extraordinary expense that the nation was likely to incur for excess of navy, excess of army, excess of ordnance, and indeed for every other article, except one, of a material nature, at a million, or a million and a half; and for this he thought there were ample resources in the revenue, as there had been proved to be for the large excess in the present year. The other article of extraordinary expense which he meant was, the satisfaction to be made to the American loyalists. The commissioners had now nearly wound up the whole of the claims, and it appeared that there was property lost which the commissioners had ascertained and agreed to liquidate at 1,860,000*l.* There might yet remain 2 or 300,000*l.* to be ascertained. This was to be considered as loss of property. There were also claims of loss of office, which the House would take into their consideration, and act upon as their generosity might incline them. But stating the whole at 2,000,000*l.* or 2,100,000*l.*, the House would see that 500,000*l.* had been paid them, and there was still 1,600,000*l.* to be paid. He was authorized to say, that they would be well pleased to have this sum paid them by instalments, and that the payment should commence next year; and he meant to propose that the profits of a lottery, to be established annually, until their claims were fully liquidated, should be applied to their relief. A lottery for seven or eight

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years would fully answer this exigency, provided that the bargain should every year be rendered as profitable as it had been for the last year, and for the present. He had made the bargain on a competition among different bidders, and the profit would be about 260,000*l.* a year. Gentlemen might be astonished at this circumstance, but such was the rage and madness for this species of gambling, and such was the bargain that he had made.

The probable state of our revenue, and the certain amount of our expense were matters which came next in order, as, undoubtedly, it would be requisite to prove that we ought to have confidence in our situation. That we should invariably proceed in applying the million to the diminution of our debt, was a proposition which he would not detain the House for a moment in discussing, as it had already so forcibly demonstrated its utility. The million was, therefore, added to the permanent establishment of the country; and, as the House had, in its wisdom, established a longer system of defence than was in contemplation two years ago, he would state the permanent peace establishment of the country, instead of 15,478,000*l.* as calculated by the Committee, at 15,624,000*l.* He explained the rise to proceed from the increased plantation estimate, which would cost 100,000*l.* more than it was taken at, and the Hessian subsidy which was 36,000*l.* There was to be deducted from this sum a saving of interest of about 16,000*l.* a year, which made the excess about 120,000*l.* only, but he took it at 124,000*l.* calculating the anticipated establishment at 15,500,000*l.* The produce of the last year's revenue up to the period ending the 5th of April, including the land and malt, was 15,792,000*l.* which was 314,000*l.* more than the Committee said would be necessary for an establishment, and it was 168,000*l.* more than was necessary, even by the increased establishment, which the House had thought it wise to adopt, and which perhaps political circumstances had rendered requisite.

Arguing, therefore, from the experience of last year, we had the fairest ground for confidence that we should not only enjoy ample funds for the liquidation of every expense, but also for carrying on the great purpose of the late arrangement, the extinction of the capital of our debt. But perhaps it might be argued, that it was not a fair mode of stating our situation, nor a rational ground of confidence, to argue from the evidence of one year only. He begged leave to remind the Committee, that the last year had many unfriendly circumstances in it, particularly the interruption which our commerce naturally received in the late alarm of war: but, even in looking back to the average of the last three years, they found the calculation strongly confirmed, though certainly the surplus was not so favourable. Yet we had other very essential grounds of confidence: various branches of revenue were improving, and many more were susceptible of improvement. The farming of the post-horse duty brought an accession of 30,000*l.* to the funds. He must yet, before the close of the session, propose an increase of duty on the stills used in the distilleries of Scotland and on the duty on houses for selling spirituous liquors. Some regulations to prevent the abuses practised to avoid the duty on tobacco were also essentially necessary. He had it in view to propose something on this subject, but he was not yet fully adequate to the attempt.

The progressive improvement of a country in peace, and particularly of such a country as England, was a material object, and this was not left for mere speculation. From the experience of four years we were able to form some estimate. The receipt of the permanent taxes in 1787 had been 15,792,000*l.* including the land and malt, or 13,000,000*l.* exclusive. The receipt of the taxes in 1783, exclusive of the land and malt, had been 10,184,000*l.* Thus there was an increased revenue of three millions, of which not more than one million and a half accrued from new taxes. The rest proceeded from the actual, clear, and ascertained improvement of the country in all its branches, and which demonstrated the increased opulence of the empire. Every department presented the same progressive improvement. In the trade, the navigation, and the fisheries, the progressive improvement bore an exact proportion to the increased revenue. So that our exports and imports, with the immense loss of the American colonies, upon which some persons had so greatly depended—with the immense loss for ever of the money that was lavished on the war—with the loss of the people—were now as great as in the most flourishing year before the last war.

In 1772 our imports were upwards of 14,500,000*l.*; our exports upwards of

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16,000,000*l.* In 1773, the imports were 12,000,000*l.*; the exports 16,000,000*l.*: these were the greatest years before the last war.

In 1786, the imports were 15,786,000*l.*; the exports 16,300,000*l.* In 1787, the imports were not ascertained; but the exports were 16,600,000*l.* Perhaps it might be said, that in these comparative statements the balance was against us in the latter years; but the increase of the imports arose from the increase of the home consumption of luxuries. It proceeded from the beneficial import of raw materials used in our manufactures; and it might be considered as a very pleasing circumstance attending the increased imports, that they chiefly came from a part of our own empire—they came from Ireland.—In like manner our navigation had increased. Our valuable fishery in particular had improved with much rapidity. The Newfoundland fishery, that great nursery of our seamen, was in a most flourishing condition. In 1773 and 1774 it produced 516,000 quintals. In 1786 it produced 732,000. In 1773 the tonnage in the Greenland fishery was 27,000. In 1786 it was 53,000. In 1773 the number of ships was 96. In 1786 the number was 153. In 1787, with the reduced bounty, the number was 248. The number of men employed in this fishery in 1786 was 6,600. In 1787, it could not be less than 10,000. The southern whale fishery, a new and very valuable branch of trade, which he only took up at the beginning of the last war, had also equally prospered. In this fishery, in 1785, there were employed 18 ships producing 29,000*l.* In 1787 there were employed 38 ships producing 107,000*l.*

He mentioned these circumstances to prove that our improved condition came from no forced revenues, but was the fair and actual result of increased commerce. We had thus ascertained a surplus after having appropriated a million to the payment of our debt. We had given great additional strength to our foreign possessions, and, in doing this, we had not overlooked that which was the favourite service at home. No less than seven millions had, in the course of four years, been expended in the improvement of the navy; and he took upon him to say, that it had been applied with as much fidelity as it had been voted with judgment. There were, he would pledge himself to prove, 30 ships of the line, and 35 frigates, built or repaired, more than there were in the first four years after the peace of 1763. In addition to this, we had absolutely and for ever extinguished two millions and a half of our debt.

One more circumstance only he begged leave to mention, and this not without triumph, although he trusted that he felt no other than the honest pride of an Englishman on the occasion. Our rival in the war, France, who had interfered in the dispute with our late colonies; who had projected to herself such immense advantages by the war, and who certainly had advantages in it, was now able to prove, that the war gave to her less than she expected, and that we had suffered less than had been anticipated. He had within a few hours seen the ackowledged state of the French finances, as drawn forth and exhibited by the French government. By that account, the avowed annual deficiency of revenue, to answer their necessary expenditure after all the retrenchments they had made, was upwards of 2,300,000*l.* sterling. Their receipt was acknowledged to be about 20,000,000*l.* sterling. Their expense was confessed to be 22,900,000*l.* sterling. In the same statement, there was a plan devised for an annual loan for five or six years to come, which, with a variety of projected retrenchments, were held out as sufficient to wind up the effects of their derangement. He mentioned this, simply to show the comparative condition of the two countries; and surely it afforded matter of pride to England, that her rival, who had thus interfered without provocation, had been so thoroughly disappointed in the views which she had in the conflict. Mr. Pitt concluded with moving the first of a set of resolutions.

Mr. *Sheridan* remarked, that however invidious it might seem to start objections to so flattering a statement of the revenue and increasing resources of the country, as had been just given, it was necessary to dispel the delusion under which this country had been acting for some time, and to detect the fallacies by which it was still attempted to impose on the public, and continue that delusion. The right hon. gentleman had entertained the House with an account of the sad state of the French finances, and he, for one, wished so well to that part of his argument, that he hoped the French finances would always be found in as bad or even a worse situation, whenever the right hon. gentle-

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man should have occasion to draw such a comparison as he had now done. But, how had they been reduced to that miserable state in which they were represented to be? by doing that which we had done, and were persisting to do. The French had not faced their situation, and by endeavouring to impose on themselves, and to make it appear better than it really was, they had rendered it infinitely worse than it might have been.—The real question before the Committee was, to consider whether our receipt was equal to our expenditure. The annual expenditure for the peace establishment, as now stated, was to be in future 15,500,000*l.* This might, therefore, be considered as ground to argue from, since, however much it might exceed that sum, it could not reasonably be expected to fall short of it. In order to make up an income equal to this expenditure, by taking the receipts not on an average of several years, but one year only, and making up the accounts from April 1787 to April 1788, instead of from January to January, a revenue was produced on paper of 15,792,000*l.* Mr. Sheridan contended against the accuracy of this statement, and said the report of the Committee of 1786 would put the matter in a clearer light. The annual expenditure was there stated to be 15,390,000*l.* and the annual revenue as there stated, with 100,000*l.* additional taxes, fell very far short of that sum, if fairly calculated. If the right hon. gentleman, instead of the receipt of the last year, which was acknowledged to have been more productive than any former year had been, from accidental causes that could not be expected to operate for another year, had taken, as he ought to have done, the average of 1786 and 1787, the produce of all the taxes would have appeared to be no more than 2,389,000*l.*, making, with the addition of the land and malt taxes, 15,250,000*l.* which would have fallen short of the expenditure, as now stated, 250,000*l.* This was as near the truth as could reasonably be presumed, from the circumstances of the country and of the revenue, since the peace; and this was the situation which the Committee was bound in duty to meet and to provide for, instead of endeavouring to impose on themselves and the public, and delaying to apply the remedy till it might be too late.—Another circumstance he felt himself obliged to controvert was, the means by which the right hon. gentleman made up his estimates of the expenditure. While he added to the estimates of the army, he allowed no addition to the estimate of the navy. Was it really his opinion that the expense of the navy in 1790, would not exceed 1,800,000*l.*? for the ordnance indeed he allowed 10,000*l.*, but took no notice of the expense of fortifications, which, in the West Indies alone, he had formerly stated would amount to between 2 and 300,000*l.* and taking fortifications, as it was most reasonable to do, at the largest estimate (for they seldom fell short in point of expense, whatever they might do in point of utility) there would be wanted 300,000*l.* for the West Indies alone, and on the whole from 7 to 800,000*l.* He objected, also, to the estimate for miscellaneous services, which he contended must exceed by 74,224*l.* the sum at which it was made out.—He came next to consider the shifts to which the right hon. gentleman had resorted, in order to defray the extraordinary expenses of the year: 500,000*l.* were to come from the East India Company. They were to pay 300,000*l.* last year, and he had then objected to the right hon. gentleman's taking credit for a sum which the Company had not acknowledged to be due. No part of that sum had been paid into the Exchequer, and because the payment had been, and was still disputed by the Company, credit was again taken for a much larger sum, which he firmly believed would no more be paid than the former. The Company had denied that they owed any such sum to government; they had drawn up a case for the consideration of counsel, and if the facts were as they were there stated to be, he had no scruple in saying, that the claim of government was not well founded. —The right hon. gentleman had amused the Committee with fine stories of the increase of our trade and shipping, and the flourishing state of our fisheries; but instead of entering into any discussion of what he had advanced on that subject, the truth of which he wished as much to rely upon as any man, he begged leave to call the attention of the Committee to the Commutation Act, which had failed in every circumstance, for which those who supported it stood pledged to the public. Instead of the supply of tea which the Company were bound to import by that Act, to answer the increased demand, to have a year's stock on hand, and to keep the prices as low as by the commutation

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they ought to be, they had not imported a quantity equal in any one respect to those purposes. This he did not charge on the Company as blameable; their finances had not enabled them to do it; and would government call upon them to pay 500,000*l.* in order to enable them to do that which they had not been able to do before? There was no way of doing this, but by enabling them to increase their capital as the value of it decreased, as had been done in the famous South Sea scheme.—With regard to the Commutation Act, he asserted again, that the compact with the public had been broken in every respect. In the first place it was to destroy smuggling, which had been argued as the principal advantage that was to be obtained from it, and yet it was notorious that it had not done this. The Company was to supply not only England, but all Europe with tea: 180,000*l.* had been sent to the continent to buy up the whole stock there; and by the last accounts from China, the foreign shipping there was four times greater than it had been at any former period. We now sent to China 1,500,000*l.* annually, instead of 350,000*l.* or 400,000*l.* which we used to send before; and notwithstanding this great increase of the balance against us, from the high price of tea, and the quantity that would soon be imported on the continent, there was reason to believe that smuggling would again prevail as much as ever. This breach of compact with the public, he affirmed to be a strong charge against those in whose hands the management of the affairs of the Company was placed, and whose duty it was to see that the engagement with the public should be fulfilled. He objected, also, to the method in which the commutation duty was paid; since it passed unnecessarily through various offices, instead of being paid immediately into the Exchequer. He concluded with observing, that in the present real state of the finances, and the evident inefficiency of the Commutation Act for the purposes for which it was passed, he saw no reason why a duty of 2 or 300,000*l.* should not be raised on the article of tea.

Mr. *Pitt* requested that he might be again favoured with the indulgence of the Committee, while he took notice of the very singular manner in which the hon. gentleman had argued the question. The hon. gentleman began his speech with saying, that he would confine himself to the simple question, whether the revenues of this country were adequate to its expenditure: he had, however, thought proper to desert the ground he had taken, in order that he might attack the Commutation Act passed four years ago. If the hon. gentleman really felt on that subject what he professed to feel, let him move for the repeal of the Act, and he was ready to meet him. The hon. gentleman could not, however, forget that he had claimed some merit for having had a share in the idea of the Commutation Act: and that the arguments which were then brought against it, had been completely refuted.

He contended that he was justified in taking the year, ending the 5th of April last, as a tolerably good criterion of the probable resources of this country. The preceding year had been marked with peculiar circumstances, which had already been explained; but from the natural spring of commerce, and other causes, the increase of the revenue had been uniformly progressive ever since the peace, with the exception only of the year, ending the 5th Jan. 1787. With regard to the permanent peace establishment, perhaps circumstances which could not be foreseen, might increase it. It was impossible to provide for every contingency: but there was no good reason to apprehend, that the sum for which it had been taken would not be adequate to the expenses, particularly as there was every probability that, in two years, our navy would be in such a state as to require no farther increase. The fortifications were not to be considered as a permanent expense at any rate, because if they should not be finished for a year or two after the time proposed, the sum issued on that account would not substantially affect the arrangement. As to what the hon. gentleman had said relative to the debt due to public by the East India Company, it deserved to be treated with as little ceremony as had accompanied the observation. If to claim a just debt, at a time when the circumstances of the nation demanded it, could be called a shift, it was a shift of which he was not ashamed; and, in his opinion, it was infinitely to be preferred to the shift of borrowing money, or imposing new taxes. The debt which the Company owed considerably exceeded that for which he had taken credit; but if the claim was not found to be just in its fullest extent, the money would be paid, subject to its being refunded or not, according to the event of the decision on that question. Upon the whole he lamented, that the

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hon. gentleman had taken that opportunity of quarrelling with him, and that he had not been able to find a more plausible pretence for his opposition to the subject under the deliberation of the Committee, than by his dreams and reveries on the Commutation Act.

Mr. *Fox* begged leave to remind the Chancellor of the Exchequer of the arguments which he had, in the last session, advanced on the same subject. He recollected perfectly, that when the ways and means were then agitated, the right hon. gentleman had declared, that it was not upon any account fair to estimate our permanent resources from the produce of any one year. The year ending the 5th of January, 1787, he stated to have been peculiarly unproductive, from the failure of crops in the West Indies, from the decrease of our imports, till the event of the Commercial Treaty with France, and from other causes which he then enumerated. The right hon. gentleman at the same time, candidly acknowledged, that the next year would probably be as much more productive, as the former had been deficient, and that therefore it ought not to be taken as the criterion, by which the permanent amount of the revenue ought to be calculated. The right hon. gentleman had, however, that day, totally omitted any observation of that kind, though the justice of the remark must be obvious to every man, who had paid the smallest attention to the subject. He certainly thought it was extremely fair to take the medium of the two years, as the principle of calculation; but, this the right hon. gentleman had not done; on the contrary he had taken the year, ending the 5th of April last, because it was found to be more productive, and, consequently, more adapted to his purpose, than to take it, as he had the former year, ending the 5th of January. For his own part, he had no scruple to say, whatever odium might attend the assertion, and however unpopular it might be to hold out an unpleasing picture of our situation, that our revenues and resources had been placed in a point of view as much too sanguine as our expenses had been estimated too low. This was, precisely, the delusion that had reduced the finances of France to the low state at which they now were; but such was the happy constitution of this country, that it could not be long deceived. It might be deceived in pence, but it could not in millions. With respect to the Commutation Act, he certainly thought that it was intimately connected with the ways and means of the year, and had, therefore, been very properly noticed by his hon. friend. When that question was debated, he remembered having strenuously urged, as a strong argument against it, the difficulty that would attend a repeal of it, if it should be found inadequate to the purposes for which the act had been framed. The right hon. gentleman now says, If you don't approve of that Act, why don't you move for the repeal of it? For his own part, though he was not prepared to move for its repeal, he had no hesitation in declaring, that it had totally failed in one of its great purposes which was the annihilation of the smuggling of spirits. For the fact was, that since that Act had passed, the quantity of brandy, &c. which had been smuggled into this country, was immense. He repeated, that the minister had held out a delusive view of our resources, and that he had calculated the expenditure at a lower rate than either experience or reason could justify.

After a short conversation, the Resolutions were agreed to.

Mr. Grenville's Bill for regulating the Trials of Controverted Elections.] May 6. Mr. *W. W. Grenville* rose, and having remarked that he had bestowed all the attention in his power upon the subject of a bill to explain and amend the Act for regulating the trials of controverted elections, expressed his hope, that if his motion met with the concurrence of the House, he should be able to bring in such a Bill, as, with their assistance, would prove a material improvement on the law as it now stood. Should his motion be agreed to, he meant, as soon as the Bill was brought in, and had been read a first time, to move, that it be printed, in order to give gentlemen a full opportunity of considering it. It was therefore not necessary that he should then take up much of the time of the House, in going at large into the discussion of the principle, clauses, and objects of his intended Bill; but, he wished, as shortly as possible, to state its outline to the House. When the existing Act had passed, the House well knew that the great aim of it had been, to take the trial of petitions on controverted elections off their hands, and to place them in a committee so constituted as to be most likely to do strict and im-

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partial justice to the parties; that end, it would be agreed on all hands, had been fully answered; but the operation of the Act had been attended with certain well-known inconveniences, to guard against which sufficient care had not been taken when the Bill was in agitation, so much had the attention of the author and framer of it been bent on achieving his main purpose. Mr. Grenville said, he had revolved in his mind the most practicable means of removing these inconveniences, and two modes had suggested themselves; but then, as these could not be effected without very materially altering the most essential forms prescribed by the Act, he believed the House would be inclined to join with him in opinion, that it would not be prudent to attempt to meddle with the frame of a law, from the execution of which so many advantageous consequences had been derived. Upon mature reflection, therefore, he had determined to let the forms prescribed by the Act remain undisturbed; but there were other inconveniences to which the Act had given occasion, which might, in his opinion, be touched without alarm, and removed without danger of any sort of injury whatever to the general operation and effect of the Act. Ever since the Bill had passed into a law, it was observable, that an infinite number of petitions, complaining of undue elections, had been presented in the first session of every Parliament. Many of those petitions, after having taken up much of the time of the House, had proved frivolous. He should propose, therefore, to empower the Committee to adjudge, that the party presenting an election petition that should turn out to be frivolous, should pay reasonable costs, and to empower them in like manner to oblige the party offering a frivolous defence or answer to a petition, to pay reasonable costs. This was merely an Act of justice, and yet, he believed such a regulation would save much expense to individuals, and much time and trouble to the House. Another very material inconvenience, in his mind, called equally for a remedy, and that was the want of a rule being laid down to establish the rights of election, to ascertain them, and to render them immutable in future. At present, it was no uncommon thing to have two gentlemen sitting in that House as representatives of the same borough, on different rights of election. In order to remedy this, he meant to annex certain provisions to his Bill, which he flattered himself would answer the end proposed, and ascertain the rights of election for the future. Mr. Grenville concluded with moving, "That leave be given to bring in a Bill for the farther regulation of the trials of controverted elections and returns of members to serve in Parliament."

Leave was given accordingly.

Queenborough Election Petition.] The order of the day being read for going into a Committee on the Queenborough election petition, [See vol. 26, p. 1310], having been read, Mr. Marsham took the chair. As soon as the examination of witnesses had been gone through, Alderman *Sawbridge* said, that he conceived the allegations of the petition to have been fully made out, and that it had been proved in evidence that the Board of Ordnance did possess an undue influence in the borough of Queenborough, to the prejudice of the freedom of election; and that, for the purpose of maintaining such undue influence, they employed more Queenborough vessels and paid a dearer price for them than was necessary, to the abuse of their official powers, and the waste of the public money. He contended, that it had been proved, that the Board of Ordnance, in consequence of such misapplication of the public money, paid 18,000*l.* a-year, for business that could be done as well for 600*l.* He said, that the noble Duke at the head of the Ordnance had charged the Board, in his predecessor's time, with having sacrificed their public duty to the extension of election influence. After informing the House, that he had two motions to make, he concluded with moving the first of them, viz. "That it appears to this Committee that the Board of Ordnance does possess an undue influence in the borough of Queenborough."

Mr. *Aldridge* said, that the freemen of Queenborough were 134 in number, of whom 20 were incapacitated by Act of Parliament from voting, they having places in the Customs. Thirty of them only were in the service of the Ordnance Office, and at the last election only twenty of those thirty voted for him. The other ten, to this day, held their places just as they had done before the election. With regard to Mr. Stamp, who had declared at the bar, that he (Mr. A.) had refused him preferment, and alleged as a reason, that though he had voted for him, he had not voted for Mr. Bowyer; he would read the

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House two letters, written by William Stamp (one of them in October last) in consequence of two letters that he had at different times written to Stamp, informing him that he might, if he thought proper, have a mate's situation on board one of the ordnance boys. Mr. Aldridge said, he had written to Stamp on the subject a second time, in consequence of his proving tardy, and sending no answer to his firs tletter. He read Stamp's two letters, one of them addressed to the Board, and the other to himself. In the former, Stamp thanked the Board for the appointment, and in the latter, he begged permission to resign the situation of mate, on the plea, that he did not choose to go to sea any more in a powder ship. Mr. Aldridge commented on the man's duplicity, and said, he had falsely declared at the bar, that he belonged to the office of Ordnance; whereas he had quitted the employment which he once held under them, and the true reason was, because the Frederick, on board of which vessel Stamp had been a mate, was an old vessel unfit for service; his situation, therefore, had been a sinecure; but the vessel to which he had been appointed mate, was a stout, able boat, fit for actual service, and if he had continued mate of her, he must have gone to sea, which he did not like. Mr. Aldridge commented on the evidence delivered, and the report that had been made by captain Dickinson. He said, it was obvious, from the sort of questions that had been put to the witness by gentlemen on the other side of the House, that it was intended to insinuate, that Mr. Dickinson had been ill used, because he had made a report against the Queenborough vessels; but the fact was quite the contrary; Mr. Dickinson's report had not been relied on, because other officers, whose reports had been read, and who were men of most respectable characters, differed totally in opinion with him as to the practicability or utility of his scheme. With regard to Mr. Baker, the sail-maker, he never had been sail-maker to the Ordnance, but had only been occasionally employed by the Board as other tradesmen were: and he was not at all ashamed to say, that he, being the representative for Queenborough, had recommended the employing of a freeman of that borough who was a sail-maker, and who had worked precisely on the same terms as Mr. Baker worked. It was true, when Mr. Baker heard that the Board had contracted with the other sail-makers to make suits of sails for one or two of the Ordnance vessels, he came and offered to make the sails a penny a yard cheaper, which would have been a difference of 27*s.* upon the whole contract; but he flattered himself the Committee would be of opinion, that the Board acted rightly in rejecting an offer to undermine another tradesman. He believed that no imputation of ill conduct could be justly alleged against the Board of Ordnance, and should therefore oppose the motion.

Mr. *M. A. Taylor* should not think it sufficient to give a silent vote against the motion, but would, when the original motion was disposed of, move a resolution of censure upon the subject matter of the petition, because he not only thought the principal allegations of the petition remained unproved, but that it had been one of the most absurd proceedings ever brought before the House. So far from fixing an imputation on the character and conduct of the noble Duke at the head of the Ordnance, the evidence appeared to him to confirm the rectitude of that conduct, and to prove how much the public were obliged to him. He would not take up the time of the Committee by entering into a discussion of a subject, which, though it had three months ago been gravely stated as a serious charge against the Board of Ordnance, now proved to have been unworthy to have been entertained by the House at all. He would therefore move, "That it is the opinion of this Committee, that the complaint alleged in the petition is frivolous and groundless."

Mr. *Courtenay* said, that after what had been proved in evidence at the bar, the Committee, he conceived, could not possibly resist the motion of the hon. alderman. At any rate, he was persuaded, they never would think of passing a vote of censure upon the authors of a complaint, who made good their allegations. The noble duke now at the head of the Ordnance had himself been the person, in a debate in the House of Lords, to charge the office of Ordnance, in direct terms, with sacrificing the public interest for the sake of extending parliamentary influence, and therefore, every endeavour to bring that very charge home to the noble duke was perfectly fair and justifiable. He produced a copy of that part of the noble duke's speech which had attacked the Board of Ordnance, and read it to the

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Committee. He said, upon that the noble lord, at that time master-general, had appointed captain Dickinson to inquire into, control, and check the conduct of those who were proprietors of the Queenborough boats. From capt. Dickinson's evidence it appeared that he was still employed as superintendant of the Ordnance service, but that, as soon as he had made his report, stating that there did exist abuses in that branch of the service, and that the necessary business might be done at much less expense, he was suspended from all his duties, and had never been employed in the same branch of superintendance since. He commented on this circumstance, and agreed, that the facts proved in evidence, were not of that size and extent that possibly might have been expected; but he contended, that although no immediate charge had been brought home to the noble duke, the fact of the Board of Ordnance possessing undue election influence in the borough of Queenborough had been incontrovertibly established. After what they had heard, the Committee could not possibly refuse to vote for the motion of the honourable alderman.

Sir *James Johnstone* said, he approved of the noble Duke's conduct in the present business, and he would vote with him. He had voted against him when he wanted to introduce expensive fortifications; he had voted against him when he proposed that nine-pence should be the pay of a soldier, and wished to be empowered to pay him only six-pence a-day. He thought him wrong in both those points, but he thought him right now. If it was right that the Board of Ordnance should have any of its members sit in that House, the Board ought to be supported. If it was wrong, let a bill be brought in to declare that it was wrong. As the case stood, the noble duke was justified in going as far as he had gone, and if he had gone still farther, he would have supported him.

Mr. *Edwards* said, that the noble lord who had been often alluded to, was so conscious of having done every thing in his power to check any improper conduct with respect to the Queenborough boats, that he had authorized him to declare, that the noble lord was ready to come to the bar and undergo an examination on the subject.

The Committee divided on Mr. Alderman Sawbridge's motion:—Yeas, 24; Noes, 114. On Mr. Taylor's motion of censure, the Committee divided:—Yeas, 102; Noes, 25.

Proceedings upon the Impeachment of Sir Elijah Impey.] May 7. The House having resolved itself into a Committee of the whole House, to consider further of the several articles of charge of High Crimes and Misdemeanors against sir Elijah Impey, knt. late Chief-justice of the Supreme Court of Judicature, at Fort William, in Bengal, sir Godfrey Webster in the Chair,

Sir *Gilbert Elliot* rose. He said, that he would not take up the time of the Committee, by a single word of preliminary discourse, but would just go over the general grounds of his former argument. On that occasion he had laid down two points of law, which he had endeavoured to establish to the conviction of the Committee. He had said, that the king of England had no jurisdiction whatever over India, Calcutta, or Bengal; and that if he had, he had no right to extend the authority of British laws over the persons, properties, and lives of the natives of India. He had confined his argument on the former day, to the first of these two points of law, and he had stated several charters to corroborate it, declaring that it could never be the case except in a conquered country, and he had contended, that there existed no right for us to consider the British possessions in India as a conquered country, previous to the periods in which the two charters were granted; viz. the charters granted in 1726, in the reign of George 1, and the charter granted in 1753, in the reign of George 2. In considering those charters, it was sufficient to argue only from that of George 1. because from thence the clause relative to the grant of powers of jurisdiction, was copied *verbatim* into the charter of George 2. He had stated, that previous to the first of these charters, in 1697, the East India Company, (a mere company of private merchants), and not the British monarch, had obtained a tenure of the towns of Calcutta, Neuta Cheuta, and Mogapore, through the power of the prince or nabob, to hold it under the zemindars, the proprietors, upon the consideration of considering it as a zemindary, and paying the usual tribute to the prince. When the charter of George 1 was granted to the Company, their three towns abovementioned extended only three miles in length, along the river, and in breadth from the river a single mile. In that state

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they continued to hold them in 1753, and there was not a single word in either of the charters, that could be construed into the giving them a power over the natives of India residing in, or frequenting either of their three towns unless it were the word "all," in that clause of their grant, which gave them "power and jurisdiction in and over all manner of persons," &c. within ten miles of Calcutta, and that, in his mind, was not of sufficient authority. If his Majesty could make laws to have operation ten miles distant from Calcutta, he would have an equal right to make laws extending their operation and effect one hundred miles distant. The word "all," therefore, was not of such efficacy as might be imagined. Sir Gilbert quoted from a book of instructions, which had, at a subsequent period, been sent over by the Company to India, parts of which seemed to delegate to their servants abroad, a power to try offenders indiscriminately, natives and Europeans; but if he would not allow such power to exist in the king,—and that he had all along contended, because to make laws was to legislate, and for a king of England to assume that power, would be to assume in his own person the full power and functions of legislature, which the constitution had placed in the joint hands of the three branches of the state, King, Lords, and Commons—if he would not allow this power to the crown, it could not be in the East India Company. In the first place, not a single syllable in the book of instructions proved that the Company had considered whether such laws were applicable to the natives. In the next, he should positively contend that the East India Company had no right to establish a claim in which they were a party. He read a variety of authorities to prove, that in 1758, and in other years, they had no such power. On the contrary, in 1758, there was an express authority to distinguish the jurisdiction applicable to Europeans and natives, laying down rules for trying and punishing the former by our own laws, and the latter by the laws of their own country. Sir Gilbert read an extract to prove this position. In 1762, a proclamation had been made by the President and Council of Calcutta on the subject, and they had then first exercised a jurisdiction, which political motives had prevented their exercising till then, and which they had not ventured to exercise, till their power increasing, the force of political reasons no longer existed or operated. He argued this matter much at large, and before he concluded what he had to say on this head, observed, that the Committee would, perhaps, be surprised to hear, that when the case of Nundcomar came before the Supreme Court, the question of right of applying the authority of British laws had not been thought worth a moment's discussion. He observed, that acts of parliament did not extend to a distant country, unless such a circumstance was expressed by those acts. To prove this, he read an extract from Blackstone. He then referred to the act of George 2, for the prevention and punishment of several crimes, such as perjury, forgery, &c. and argued from it to prove, that it did not extend to India. He knew not of any case which showed that a charter, which carried the laws of England into another country, carried them thither without selection and modification, and that expressly and specifically stated in the charter. There was, indeed, another way of carrying the laws of England into another country, and that was by the laws of that other country.

Having argued upon the distinction between what laws would, and what laws would not apply to India, under either mode of carrying them thither, he referred to a cause for gaming against Nabkisson, which had been attempted to be tried, but was rejected by the court at Calcutta. He quoted the objection urged by sir Robert Chambers upon the trial of Nundcomar, and declared that sir Elijah Impey not only relied on a bad authority, but even strained that authority, and had, in his defence, misrepresented the fact, and the ground on which he had over-ruled sir Robert Chambers's proposition to quash the indictment, and suffer the prosecution to prefer a new one on the statute of Elizabeth. He contended that the fact was, the court had no authority over the natives of India, and if they had, the act of George 2 did not extend to that country; nevertheless, the questions stated on that point in the case of Nundcomar, had not been permitted to be discussed. He mentioned the printed trial, which had been proved to have been published by the authority of sir Elijah Impey, who had declared that he sent over the account of the trial, to show that they "wished no concealment." He had good ground for believing that the reverse was the motive, and that the account of the

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trial was sent over to mislead, and that much important information relative to it, was kept back. This convinced him sir Elijah was conscious how illegally he had acted. Else why did not sir Elijah mention any thing of the points of law in the account of the trial? Did he mean merely to gratify that sort of idle curiosity that inclined people to read the published accounts of trials at the Old Bailey, merely to see what was the fact charged and proved? In a trial like that of Nundcomar, the points of law, and the manner in which they were settled, were the matters dear to England, and weighed against them; the fact itself was nothing.—Sir Gilbert went into arguments to prove that sir Elijah intended, at all events, to put Nundcomar out of the way. To establish this, he stated the strong prevalence of party in India at the time, the great heats and animosities that influenced and irritated the different parties, the superiority of that of the Governor-general over that of the majority in council; the known friendship of sir Elijah for Mr. Hastings, the equally well known dislike of sir Elijah for the majority, and *vice versâ*, their dislike for him. He quoted a passage of a letter from sir Elijah to lord Rochford, to prove his having expressly declared himself a friend to the party of Mr. Hastings. He instanced sir Elijah's declaration at the bar, that Mr. Hastings had handed to him a copy of the libel burnt by the common hangman, as a proof of Mr. Hastings's intimate connexion with sir Elijah; a conduct in which Mr. Hastings had violated every duty, and contradicted his own solemn act and deed. He read another passage in the letter to prove that sir Elijah was well acquainted with the politics of Bengal, previous to the trial of Nundcomar. That, and a variety of other circumstances, added to the notoriety of the fact, sir Gilbert said, tended to prove that sir Elijah well knew that Nundcomar had publicly stood forward the informer against Mr. Hastings, having charged him with gross peculation, and that he was engaged as a principal witness in a pending prosecution, at the very time that he was apprehended, indicted, and tried.

He next proceeded to investigate all the proceedings previous to, and upon, the trial, in order to establish that part of the charge against sir Elijah. With regard to the crime of forgery, it was first to be considered, whether it was a capital offence in India? It was, he observed, not necessarily punishable with death any where. In India it never had been deemed the object of such a punishment. He recapitulated the transaction in the outset of the trial, the objections made by Nundcomar's counsel, and the manner in which the chief justice had received those objections, answering them with unbecoming warmth and passion. He said, it was not to this day certainly known who was the person that drew the indictment, and the strong presumption that it was drawn by one of the judges, (Mr. Tolfree having in evidence at their bar declared, he saw it in the hand-writing of Mr. Justice Le Maitre) was a ground to warrant a suspicion that sir Elijah was concerned in preparing it. The great skill and correctness with which it was drawn, proved it to have been the work of a very able practitioner; it must have been drawn by a lawyer, and by one well skilled in the draft of such documents. Had it been the work of a counsel, its acknowledged merit would have drawn forth its author, and have made his fortune; the obscurity, therefore, in which the real truth, in respect to this particular was involved, and all the mysterious circumstances relative to it, led the mind to something stronger than mere conjecture, as to who was the drawer of it. Sir Gilbert reasoned on the impropriety of a judge's stepping so far out of the line of his duty, as to take upon him such an office, and contended that the exercise of it must unavoidably have biassed his mind, since no man could take so materially active a part in a prosecution without imbibing prejudice *in limine*, and feeling a sort of interest in the conviction of a prisoner, highly unbecoming the character and duty of a judge. He went into the discussion of the circumstance of the plea of Nundcomar, and quoted from Hawkins's Pleas of the Crown, a case of two rebels, the Kinlocks, tried at St. Margaret's Hill, as reported by Mr. Justice Forster, who then sat upon the bench. It appeared from the report, that the court had even submitted to a gross irregularity; an irregularity which, in the end, proved fatal to the indictment, rather than not give the prisoners the full benefit of the forms of English law. He called the attention of the Court to the great difference between the two cases; the Kinlocks were indicted for high treason, Nundcomar was indicted for forgery, long since committed, and he

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was not liable to be tried at all in India, either under a British statute, or as having committed a capital offence. He quoted a variety of learned authorities, to show that the plea of Nundcomar ought not to have been cited. He reasoned upon the objection that had been made to Mr. Elliot's taking upon him the office of interpreter of the question put to the witnesses, and their answers; and said, he knew that the high sense of honour, and strict integrity of his relation, were more likely to add to the security of the prisoner, than tend to increase his danger: yet it was very natural for him and his counsel to take the objection. Mr. Elliot having interpreted the indictment, it was also natural for Nundcomar to consider Mr. Elliot, as in some sort a prejudiced person, and to suppose that his mind was prepared to render the evidence in the most unfavourable and strong turn of expression. The manner in which sir Elijah had answered the objection, tended to over-awe the counsel for the prisoner. He stated other parts of the conduct of sir Elijah, that, in his opinion, proved him to have acted as counsel and agent for the prosecution. He remarked upon the criminality of such conduct, declaring it to have been directly the reverse of that which the mild spirit of the law of England dictates in the conduct of all trials for life and death. He said, the evidence delivered by Mr. Farrer in the House of Commons was the most satisfactory that could be adduced; and he reasoned upon it in all its parts. He spoke of the complaints urged by Mr. Farrer, that his witnesses had been cross-examined in a manner different from any that had been examined on the part of the prosecution, and that sir Elijah had kept one of them seven hours under examination. He declared that sir Elijah's defence of his conduct in this particular, on the ground, "that the counsel for the prosecution proved incompetent to the task, and that he had conducted the examination, in order to further the ends of justice," afforded an unanswerable proof of his unjustifiable conduct, and strongly corroborated the suspicion, that he acted in the whole of the transaction, as the political instrument of Mr. Hastings, to whom Nundcomar was doubtless made a political victim. Sir Gilbert next went through a discussion of every part of the evidence, and examined the characters of several witnesses for and against the prisoner, contending that the partiality of sir Elijah's conduct throughout the trial, was obvious and undeniable.

Having animadverted upon the manner in which sir Elijah summed up his charge to the jury, sir Gilbert said, that only two or three other points, which were relative to the conduct of sir Elijah after the trial, in respect to his over-ruling the arrest of judgment that had been moved, and in respect to his refusal to grant a respite, called for the attention of the Committee. These were, if possible, still more important than all which he had yet offered to their consideration on the subject. With the consent of the Committee, therefore, he would wish to defer the conclusion of his opening till the day of the debate, being himself so extremely fatigued, and conceiving the Committee to have found themseves equally fatigued, that as it would add greatly to his personal ease and accommodation, so he hoped it would prove generally satisfactory. He observed, that, in fact, the postponement of the remainder of what he had to say, previous to the Committee's entering upon a general debate on the charge, till the day of debate, would prove an advantage to the cause, and as he would not, on that day, take up much of their time, he hoped there would be no objection to his then moving, That the chairman report progress, and ask leave to sit again.

Mr. *Fox* conceived that the proposition, considering the long speech that his hon. friend had that day delivered, and the little ground there was for complaining of it as containing any thing not immediately pertinent and necessary, could not be objected against.

Sir *Richard Sutton*, after having remarked that certainly some consideration was due to the feelings of the person who was more immediately the subject of the charge then before the Committee, added, that gentlemen must naturally expect that the person to whom he alluded, was extremely anxious that the Committee should come to a decision as soon as, with a due regard to the forms of that House, they should be able. He contended, that much delay had already taken place, and that the examination of the witnesses had more than once been put off, to suit the convenience of the honourable accuser, and that any longer unnecessary delay would be equally an act of injustice to the person accused, and a disgrace upon themselves and their

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proceedings. He reminded the Committee, that they had often continued sitting much later on business infinitely less important, and he saw no reason why they should not proceed and decide upon the first charge before they parted.

Mr. *Burke* could not avoid considering with astonishment the proposal to proceed, after what they had that day heard. He could truly venture to declare, that his hon. friend had made one of the longest speeches, with the least idle matter in it, that either the present or indeed any other committee had ever heard. Perhaps there never had been delivered a speech characterised by so much ability, so much temperance, so much candour, so much prudence, such laborious investigation, such ingenuity of argument and pertinence of remark and observation, such regular and perspicuous arrangement, such masterly management, and such a happy and forcible combination of parts, producing upon the whole, so intelligent, and so convincing an effect. Surely, then, some attention was due to his hon. friend, who had requested a pause from the very great fatigue which he had undergone. The hon. baronet had talked of delay, and of the importance of the subject. The subject was undoubtedly of the highest importance, and therefore it could not be proceeded upon with too much delay. He hoped the Committee would not force his hon. friend, fatigued as he was, to proceed; but instead of rashly persisting in endeavouring to perform a task, to which they had become unequal, from length of application to the various parliamentary business of the day, consent to take another time for determination, when they could enter the House better prepared to deliver a sober and well-governed judgment. The hon. baronet had been pleased to call forth their consideration for the feelings of the person accused. The very person himself did not manifest, by his conduct, that he was much actuated by feelings becoming his present situation. He had lately, in another place, seen him, where he had appeared more like an accuser, than a party accused. Contumacious, bold, arrogant, and assuming, he had—[Here there was a cry of Order, order!] Mr. Burke said, he would willingly sit down, if any gentleman could point out to him that he had said any thing disorderly; he was merely suggesting to the Committee, that the person for whose feelings an hon. baronet had called upon them to show due respect, carried himself without doors in a way that betokened not much feeling for the high and weighty crimes of which he stood accused.

Mr. *Caswall* begged the right hon. gentleman would not argue in that House upon the out-door conduct of any person accused before them, and who had come to their bar and avowed his innocence. The feelings of that person were not fit topics for the Committee to discuss, introduced and alluded to in the manner in which the right hon. gentleman had thought proper to allude to them. He had seen that person at the bar, and had heard him deliver his defence; he knew what feelings that defence had given rise to in his breast; and by those feelings, and by such as what he should hear farther in that House might occasion, he should be governed in his vote whenever the question came under discussion; but he was sure that the right hon. gentleman was not entitled to treat the reasonable feelings of a party accused with contempt, especially when he did not refer to any thing that passed within those walls.

Mr. *Burke* answered, that undoubtedly every person accused must be supposed to have his feelings, of some sort or other, but surely some respect was due to the feelings of his hon. friend. If the Committee insisted on proceeding that night, was the cause of justice likely to derive any benefit from such a line of conduct? Their debate and decision, under the then circumstances of the Committee would have all the rashness of precipitancy, and all the drowsiness of delay. That his hon. friend was not chargeable with any intentional delay, his exertions had sufficiently manifested. He had youth, and a competent share of vigour of mind; but he was a man, and had a body. He was liable to human infirmities, and when he felt their pressure, he could not avoid giving way to it. After evincing, that he did not complain before he had ample reason, would that Committee act so rashly and so unfairly with respect to the party accused? Did that person's friends show either the justice of his cause, or their confidence in its justice, by insisting on precipitating the measure, by forcing a hasty and inconsiderate decision, and by obliging his hon. friend to proceed, when his powers would not suffer him properly to support so arduous an attempt? Mr. Burke declared, that he had been at

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the House ever since ten in the morning, and had been engaged in parliamentary business of a nature equally important. He, for one, therefore, felt himself so fatigued and exhausted, that he was unfit to proceed to take part in a debate of such uncommon magnitude.

Mr. *Pitt* having adverted to the importance of the charge, and the great desire that must prevail on all hands to have it brought to a decision, added, that he therefore hoped it was not to be the practice in that House for every gentleman to preface any subject he thought proper to introduce with a speech of such considerable length, as to contain matter enough to fill a large volume. Not that he meant to impute any sort of impropriety to the hon. baronet for having spoken so long; he was fully persuaded he had not used a word or an expression that he did not think necessary to the illustration of his subject: all he wished to guard against was the introduction of such an inconvenience to the public business, as the making it a custom always to preface every subject with a speech so lengthened, as to prevent any other topic being discussed for two days together. With regard to the wish of that side of the House to proceed, gentlemen must not wonder that it should be the earnest desire of every member to bring the first charge, which had been so long before them, to a decision. He, for one, felt that desire; but if the hon. baronet found himself so exhausted that he could not finish his opening speech, and wait the debate afterwards, he could only lament the cause of that circumstance. If the hon. baronet thought himself able without inconvenience to conclude his speech, and let the Committee have nothing remaining but to enter upon the debate at another opportunity, he owned it would give him very great satisfaction, because two days had already been occupied by the opening, and he wished to save the dedication of a third to the same purpose, not at all feeling any difficulty in declaring, that from a sense of duty, and for the sake of public convenience, he was very much against the practice of continuing a debate for more than one day, where it could be avoided.

Mr. *Fox* observed, that there was something new in a speech of the sort that his hon. friend had made, since, perhaps, there never had been one delivered, which so distinctly and so closely adhered to its subject; but there was nothing new in adjourning in the midst of a debate. The very last session, another hon. friend of his (Mr. Sheridan) had made a still longer speech than his hon. friend had that day; but although his hon. friend had then completed his speech and concluded his argument, and although it was not so late an hour of the night as it then was, the Committee had thought it right to adjourn the debate till another day. Nor was it even new for the House to admit three or four days for the opening of a matter of importance, as was the case in regard to sir Thomas Rumbold. In that charge, indeed, the House had appointed counsel to open, and the counsel were two gentlemen, who now were members of that House, but who, he recollected, had taken four days to open their charge. With regard to his hon. friend's speech, the matter in it had been placed in new and different lights, from those in which gentlemen might perhaps have before looked at the subject; and therefore it required some more time for deliberation, than if the argument had not been quite new. He was notwithstanding aware, that however new the lights thrown upon a subject, and however different the views in which it was at any time placed, different people would consider it, as their previous ideas, their received notions, and their minds inclined them respecting its general nature. The speech of his hon. friend that day was much more replete with new information, than the charge respecting the Begums, though that had been opened in so masterly a speech, deservedly exciting the highest admiration and applause, by another of his honourable friends. The reason was obvious; for, upon that charge he had spent more time in previous examination and inquiry than upon this; and, therefore, he was fully apprized what was the sort of argument which best applied to it. For this reason, ingeniously as his hon. friend had argued it, his arguments had not appeared to him with so great an air of novelty, as those he had that day heard on the Nundcomar charge. But as the right hon. gentleman had given up his expectation of going into the general debate that night, all that remained between them was to settle about the finishing the opening. His hon. friend he was sure if he had felt himself able, would have proceeded; but, as that was unfortunately not the case, and as his hon. friend had declared,

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that what remained for him to say could not take up much time, he hoped that the Committee would suffer it to be reserved for the next day of debate.

Sir *George Cornwall* assured the Committee, that, to his knowledge, it had been his hon. relation's intention to have finished his opening speech that day; and therefore he was confident, that had he found himself able, he would have fulfilled his intention.

Mr. *Pitt* said, that he would not anticipate the discussion, by going into a debate upon the sort of impression which the speech of the hon. baronet had made upon his mind, or on that of any other gentleman. The effect on different gentlemen's minds must necessarily be different, as their opinions were grounded on, and governed by different principles. But he hoped if any part of the conduct of counsel in managing a cause was to be adopted in that House, it would not be their long speeches. With regard to proceeding farther that night, if the hon. baronet felt himself unable to go on, there could not exist a question about immediately adjourning. He only begged it to be understood, that they were to proceed to a debate and decision on whatever day might next be fixed upon for the agitation of the subject.

The chairman was ordered to report a progress; and the House being resumed, it was agreed that the Committee should sit again upon the 9th.

May 9. The House having again resolved itself into a Committee to consider further of the Charges against Sir Elijah Impey, sir George Cornwall in the chair,

Sir *Gilbert Elliot* rose, and begged leave again to trespass on the attention of the Committee whilst he proceeded to resume his speech at the point where he left off; namely, at the arrest of judgment moved by Mr. Farrer, to whose evidence he would refer the House. Mr. Farrer had stated as the grounds of his motion,

"First, the variance between the record and the instrument charged to be forged. Secondly, the verdict being general, and not stating whether it was for forging or publishing, or which of the instruments charged in the indictment specifically it found to be forged or published. And thirdly, that the defendant having been indicted, tried, and convicted capitally on an English statute, 2 George 2, it was necessary to have proved, that the instrument alleged to be forged came strictly within the received legal definition and description, according to the laws of England, and in the English courts of justice, of some one or other of the instruments or writings which that statute made it a capital offence to forge or publish, and for the forging or publishing of which he was indicted.—That he was indicted, 1. For forging a bond. 2. For publishing a bond, knowing it, &c. 3. The like of a writing obligatory. 4. The like of a promissory note. That the instrument stated in the indictment and found by the verdict to have been forged or published, was neither bond, writing obligatory, or promissory note, according to the received descriptions of these instruments respectively by our law books and courts of justice, and that though the Persian word, which was translated as synonymous to bond or writing obligatory might be so in common acceptation, yet that was not sufficient to make it so in a point of law; but that it must be proved to be the same thing essentially and exactly, according to technical legal description. That sealing and delivering were both expressly and essentially necessary to make it either bond or writing obligatory, and that signing was not necessary to the validity of those instruments; and I quoted a number of cases from the law books in support of my arguments. That the instrument in question was neither in fact sealed or delivered according to the definition or understanding of our law of those solemnities, nor had it any attestation of its being so. The attestation being only, "It is witnessed;" whereas the attestation to all bonds, deeds, or writings obligatory was always, "Sealed and delivered." That it had simply the name of the party executing or signing put to it in ink, from the cutting of such name in or upon what is called, in the Persian language, as I understand, a mohr, which might, for aught I know, be synonimous to the word seal in our language.—But I contended, that synonimous terms in different languages, or words which in common acceptation, had the like meaning, were not, nor could be, of any effect where there were essential differences in the things themselves, which I argued was the case in the present instance; and that the bare affixing the name in ink, from the cutting on a mohr, could not be considered as having any other effect in law than the bare signing with a pen would have had; and that

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even the witnesses had all, except one, so affixed their names; to wit, from the cutting thereof on a mohr. And I farther contended, that it was clear that the statute of 2 Geo. 2, could not be deemed to extend to any other instrument save those which were strictly and expressly enumerated and described therein; inasmuch as five years after the passing of that statute, it had been found necessary by the legislature to pass another; viz. 7 Geo. 2, ch. 22, making it also capital felony to forge Exchequer and Bank bonds and bills, lottery tickets, &c. which was, I thought, a clear proof, that until the passing of such second statute the forging or publishing of Exchequer and Bank bonds and bills, &c. had not been held to be included under the former statutes, though I conceived them to have a much greater resemblance to a bond or writing obligatory than the present instrument had; and that as to the calling it a promissory note, the form and nature of which are so universally known, and so strictly construed and adhered to in our courts of justice, it had not the most distant resemblance to one."

The judges did not arrest the judgment on these objections, the chief justice saying, "It is unnecessary to determine, whether it is either a bond or a promissory note; I am of opinion that it is the one or the other." Sir Gilbert remarked, that not one of the four judges thought fit to give their decision, which of the three instruments it was, and contended, that if the chief justice could not say it was the one or the other, he could not say which it was. This, therefore, was a false and pernicious principle of decision, on which, from its looseness, no legal decision could be formed. Had sir Elijah Impey been asked, Is this instrument a bond? he must have answered, "I don't know." A writing obligatory? "I don't know." A promissory note? his answer must still have been the same. Mr. Chambers, on the motion for an arrest of judgment, had said, "I think the variance ought not to vitiate the verdict; as to the general verdict he had his doubts, but thought it might be good." This clearly showed that he had not retracted his opinion. The motion of arrest of judgment, however, being rejected by the authority of the Court, he had no other objection to make, and consequently the chief justice pronounced sentence of death.

The next charge against sir Elijah was his refusal to receive the petition of appeal. With respect to the presenting the said petition, some doubt had been entertained, whether sir Elijah had been present at the time; but as the petition was presented in court, sir Elijah could not have been absent, or, if so, he must have heard of it. Sir Elijah had assigned no specific reason for rejecting it, and the only reason he had assigned had not been founded in fact.—Nundcomar knew of no precedent by which the crime for which he was tried, which was not capital by the laws of his own country, was declared to be capital. The precedent of the person who was tried and condemned in 1756, but afterwards pardoned, was not, sir Gilbert remarked, a precedent for the Supreme Court to follow, as the persons who presided on that trial were but little skilled in law, and the circumstances that followed, and the pardon of the person convicted, served rather to impress on the mind of Nundcomar, that the crime was not capital in India. It had been so understood by twenty-three Directors out of twenty-four, whose opinions were on record in a letter to lord Weymouth, and by governor Verelst, whose opinion was also on record. If it produced this effect on the minds of such persons, and on the minds of many others both in England and India, no wonder it should produce the same effect on the mind of Nundcomar.

Sir Gilbert came next to sir Elijah's resisting the applications for a respite, and his conduct to Mr. Farrer on that occasion. He read two notes that had passed between Mr. Farrer and Mr. Robinson, the foreman of the jury, who refused to sign a petition drawn up by Mr. Farrer, and not only refused, but considered the application to him for that purpose as an insult, and desired to be protected by sir Elijah Impey from such applications in future. Sir Elijah reprimanded Mr. Farrer in open court, told him that the duty of an advocate finished with the cause—that it was his duty to watch over the conduct of advocates both in and out of court—that Mr. Farrer's conduct in making the application was derogatory to his character as a counsel, and such as no counsel in England would have been guilty of, and demanded an explanation of the words "unhappy victim," which he had applied to the prisoner when justifying what he had done. The complaint of Mr. Robinson, sir Gilbert contended, showed

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that his mind was warped and prejudiced against the prisoner, and justified what he had before asserted of the incompetency of the jury to decide impartially; that the harshness of sir Elijah to Mr. Farrer (who had acted in no respect improperly in following the dictates of humanity) and his exception to the words "unhappy victim," made use of in Mr. Farrer's note, and applied to Nundcomar, betrayed great soreness, which could proceed only from a consciousness of guilt. It was the winching of "the galled jade." In fact, it might be said, both of Mr. Robinson and of sir Elijah, that they lost that temper which made the one unfit to be a juryman and the other unfit to be a judge. Nor was it decent in sir Elijah to say, "that Nundcomar, though a prince, was a man of straw."

Sir Gilbert observed, that there were several other applications for a respite; one from Nundcomar, one from the inhabitants of Calcutta, and one from the Subah of Bengal. To this latter sir Elijah had objected that the Subah was not a prince, and had very ungraciously taken upon him to decide at the bar of the House what the House itself had thought proper to leave doubtful. He argued much on sir Elijah's refusing to grant a respite, and contended, that both in that, and in resisting the application for an appeal, he was highly blameable. An appeal was the act of a party which thinks it has cause for complaint, and, therefore, it ought not to be entrusted to the judge to grant or refuse it. In India the decisions were final, and, as the judge has the power of deciding on that appeal, he ought to decide with liberality, even where no doubtful points of law had occurred, but much more so when many great and important doubts had arisen, as in the trial of Nundcomar, concerning which the Court itself had doubted.—Every argument for an appeal was still stronger for granting a respite. He did not say that the power of granting a pardon arose from a regard to the gratification of the person, but from a tendency of the human mind towards humanity, and to remedy the defects of the law itself, which it was impossible to accommodate to all possible cases, and to enable the judge to distinguish between crimes of the same nature in a legal sense, but of very different degrees of enormity, from the circumstances under which they were committed. For this reason it was, that, in this country, where the law was the sovereign of the sovereign, the power of the King to grant pardons was justly looked upon as the most amiable prerogative of the Crown. He read an abstract from Blackstone to prove this. In India, he said, the ground for a respite was still stronger than in England, because there, from the sentence of one court, there was no appeal to a higher, and the prisoner had not the benefit which every person capitally convicted in this country enjoyed—the benefit of having his trial reported to the King and Council, before the sentence was put in execution.

He would next consider the grounds on which sir Elijah ought to have granted a respite. In the first place, on account of the doubts in point of law, which he recapitulated, and said, he trusted he had proved to be strong and valid; but if he had not, he challenged any member of the Committee, any friend of sir Elijah Impey, to assert, that, in his conscience, and upon his honour, he believed that their doubts were all fairly and satisfactorily decided; and yet this was the ground upon which sir Elijah must be judged; for whoever could not do this, must pronounce him criminal in refusing to grant the respite. Sir Elijah had denied, that a proposition had been made by sir Robert Chambers to quash the indictment; and afterwards endeavoured to conceal the nature of that proposition, and to prove that he retracted his opinion. That sir Robert had objected to the legality of the indictment on the trial, and proposed to quash it, was proved by evidence. The opinion on which he grounded that assertion was proved by Mr. Farrer; and that he never had retracted it was proved by a subsequent opinion of the same purport delivered in another cause, in the presence of sir Elijah Impey, and with express reference to the opinion he had given in the trial of Nundcomar. Had he retracted this opinion, would he have again referred to it, and renewed the objection in another case, while sir Elijah sat on the bench with him? Or could sir Elijah prove by inference that he had retracted what his own positive assertion, were it made at the bar, would not be sufficient to prove against the evidence of the record he had read? Sir Elijah had laid much stress on sir Robert's signing the calendar, as an argument that he approved of the execution of Nundcomar. The calendar contained the names and sentences of all the prisoners who had been tried as well as Nundcomar's, and his signing it was an

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act of duty, and did not prove by any means that he approved of the execution. It proved only that his first objection having been over-ruled, being a man of a mild and flexible character, although of great knowledge and integrity, he did not renew his objection. Had he possessed a firmer and more resolute mind, he would have persisted in that objection, and added tenfold to the honour he had done himself by making it. It proved also, that if he was flexible, sir Elijah was firm and determined, and not to be moved from his purpose by any common opposition. The letter written to England by sir Elijah, and signed by the other judges before the execution, in which it was asserted they had been unanimous on the whole trial, reflected no disgrace on the character of sir Robert Chambers, who had been induced to sign a letter containing a paragraph which he could not approve, but on the stubborn and inflexible character of the writer who inserted that paragraph. It proved also that sir Elijah had offered information to the House which was not supported by facts. How far he might think it necessary to his defence, or how far he might be justified in doing it if it was necessary, he would not stop to inquire; but so he had done. The legality of the indictment, contrary to what he had asserted was not only doubtful before the trial, and doubtful at the trial, but also doubted after the trial by sir Robert Chambers, and by another judge of the same court, sir William Jones, who, in 1785, in a charge to the grand jury, recommended always to indict for forgery as a misdemeanor only. Nundcomar was, therefore, executed on a statute which was doubted not to be law by one judge on his trial, and by another since his trial. Sir Elijah had carried out to India many forms of English law unknown in the courts of that country before, but he had not carried out that spirit of mercy with which the English law was to be administered.

Sir Gilbert adduced the case of the Kinlocks mentioned by him on the preceding Wednesday, and recapitulated the particulars of it, to show that Mr. Justice Forster had even consented to withdraw a juror, in order to give the prisoners the full advantage of their plea; and that, in consequence of that irregularity, sentence of death, which was pronounced upon them on the conclusion of their subsequent trial, was not executed. He also cited the trial of Ann Lewis, tried at the Old Bailey for forgery, in 1758, whose counsel pleaded, as a ground of an arrest of judgment, that there was not in existence a person of the name that was forged. On that occasion the twelve judges gave their opinion, and eleven thought the sentence of death ought to be carried into execution; but one of the twelve being of a different opinion, a pardon was granted. Sir Gilbert founded many arguments on this case to show, that if at home the difference of opinion of one judge of twelve had been deemed a sufficient ground for pardon, in the case of Nundcomar, where one judge out of four differed as to the validity of the indictment, the sentence ought not to have been executed.

His next specific reason why the respite ought to have been granted was, the doubts as to facts, and the circumstances attending the cause. The proof depended on discrediting the testimonies of a witness for the prisoner, whose evidence was consistent, and whose character was good, and on believing the testimony of another for the prosecution, whose evidence was not consistent and who avowed that he never told truth when his interest or his passion induced him to tell a falsehood, except when on oath. The circumstances were, the prisoner's having preferred an accusation against the Governor-general; the reasons the natives had on that account to suspect that the court would be prejudiced; the parties that prevailed in the settlement, by which men's minds were in such a fermentation, agitated by such heat and passion as rendered it impossible for them to judge impartially, and the common interest of almost all the British inhabitants in deterring the natives from becoming accusers.

Another ground for a respite was the injustice of enforcing in one country the laws of another. It was true, we boasted of the excellence of our laws, but the greater partiality we felt for our own laws, the greater might it be expected to be felt by the natives of other countries for their laws. He would not enter at length into this argument, lest he should be again accused of speaking a volume; but he must be permitted to remark, that the laws of England did not originate in one day, or on general principles. The English code of law was the accumulated labour of ages, applying particular and local remedies to particular and local abuses; and its being peculiarly applicable to the situation,

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customs, religion, and manners of this country, proved that it could not be applicable to a country totally different in all these respects. If the law had originated on general principles, there might have been some chance that it would have been applicable in some respects to other countries, although not in all; but it was not the law itself that was so much admired—it was the pure principles on which it was administered, the independence and integrity of those appointed to interpret it that was admired and extolled.

The last ground why sir Elijah Impey should have granted a respite, was Nundcomar's rank as a bramin, a rank considered as sacred in India, where the natives think it impious to take the life of a bramin. The execution of Nundcomar must have made the poor of India shudder, as they must have thought, if a bramin, whose rank and situation were considered as sacred, and should exempt him from punishment, could be ignominiously put to death; if neither rank nor wealth could save a man's life, what would become of the poor and the mean? Sir Gilbert here read an extract from a printed account of the customs of India, to show, that although a bramin should commit a variety of crimes and even go so far as to kill another, he should not be deprived of his life; but that, in this extreme case, a bramin was only to be imprisoned. It was not for sir Elijah Impey, it was not for a handful of strangers to decide that this was an absurd distinction. What appeared absurd according to our ideas of society, might, for any thing we knew, be perfectly proper and well-founded according to theirs, and we were not with a vain presumption to trample on established laws with the reasons of which we were not acquainted.

Sir Gilbert declared, that no impartial man, sitting as a judge, would have resisted any one of the grounds for granting a respite that he had stated, and he would venture to affirm, that no one who heard him was now so free as to say that he ought to have resisted them altogether. Seven weeks had sir Elijah enjoyed to deliberate upon these reasons, and yet seven weeks, of which it was hard to pronounce how much a judge, anxious to do justice, would have slept, could not soften or turn him from his purpose. Sir Gilbert here produced a summary of the reasons, which he had urged as reasons that should have induced sir Elijah to have granted a respite, and read them to the Committee. He had committed them to paper, in order that those gentlemen who should argue against the motion might have the better opportunity of grounding their objections to his reasons. He was willing to deliver the paper to sir Elijah himself, that he might confute its contents if he was able; or he would, if desired, lay it on the table of the House.

Sir Gilbert next examined the nature of the defence set up for sir Elijah. By some it had been said, that they admitted the crime, but could not think it was punishable; that his conduct deserved every term of reprobation, but he had exercised only the legal discretion of a judge, and could not be called to account for it. Was not an act of discretion in a judge contrary to the dictates of reason and the voice of justice, by which a life was sacrificed, a moral murder? and was not a moral murder a misdemeanor? By the practice and the law of Parliament, judges had been constantly punished for acts of discretion in judgment. Sir Gilbert argued this at length, and quoted the cases of sir Robert Berkley, sir William Scroggs, and lord Somers.—Another species of defence consisted in the addresses presented to sir Elijah from the town of Calcutta. On addresses in general sir Elijah's own observation was, that, whereas in England they were obtained by party and faction, in India they were always commanded. These addresses were presented while the fate of Nundcomar was depending; and as they in general recommended to hasten his execution, might fairly be presumed to be fabricated by those who were interested in his destruction. The complacency with which he received these addresses for severity was a strong contrast to the asperity with which he had treated Mr. Farrer's application for mercy. The address of 204 Banyans, men who had renounced the religion of their country, and had an opposite interest to the natives, was called the address of the Hindoo inhabitants, who amounted to many hundred thousands. In the address of the Armenian merchants it was remarkable, that although they approved the sentence of Nundcomar, they deprecated the extension of the principle on which he was tried.

Sir Gilbert next observed that he had, he trusted, sufficiently established the crime; it remained only to prove the corrupt motive; and he admitted, that unless a corrupt motive could be proved, the impeachment ought to fall to the ground.

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The motive was to be judged of by the tendency and effect of the crime. The tendency was to impress the natives with the idea that to accuse any person in power would be fatal to the accuser; and such was the effect, for that such an idea was entertained at that time was proved in evidence. On this general principle the opinion of Mr. Hastings was of great weight. In a minute, entered by him on the council books in 1784, it was said, that if any person were so highly patronised as that a native preferring an accusation against him would be punished if he failed to make it good, complaint and accusation would be for ever silenced, and every enormity would be practised without fear of inquiry, because none would accuse—none would give evidence. This was sound and irrefragable doctrine. They were now prosecuting Mr. Hastings for a variety of misdemeanors, which might all have been prevented if the accusation brought against him by Nundcomar had been suffered to proceed. He had therefore made out both the crime and the motive, and had brought both home to sir Elijah Impey; such a variety, such a complication, such an accumulation of guilt, as was not to be found in the history of this country. He must look to a neighbouring country for a precedent; to the history of the Spanish conquest in America, which could alone afford a parallel. When Pizarro wished to put an Inca to death, he constituted a court with all the solemnity of judges and advocates, before which he arraigned the devoted Inca, and charged him with having usurped his own kingdom, with idolatry, polygamy, and levying war against the Spaniards, his rightful sovereigns, and on these absurd charges had him condemned and executed. The historians of that conquest, zealous for the honour, and emulous to record the victories of their countrymen, had not failed, however, to mark this transaction with its due degree of infamy. It remained for the House of Commons to vindicate the honour and the justice of the English nation by marking the crimes committed by sir Elijah Impey in their name with the just degree of punishment. What was there in the character of sir Elijah Impey that he should not be impeached? The high dignity, the vast genius, the profound learning of lord Bacon, could not protect him from the punishment which his corruption as a judge had merited. He had taken presents from the suitors in his court, but had not been charged with unjust decisions; although it was impossible that such a practice should not have biassed his judgment in deciding; and in the lowest state of degradation to which a man of such superior endowments could be reduced, when confessing his guilt at the bar of the House of Lords, he said, that it was some consolation to him in affliction, that by his example future judges would be guarded from corruption. By such examples the integrity of the judges in this country had been established and confirmed; and let the example of sir Elijah Impey, whose crime was as much greater than lord Verulam's, as his character and abilities were less, confirm the integrity of Indian judges, and restore the golden days of justice to injured millions.

One duty yet remained—to set before the Committee the character of Nundcomar. In a letter to the late Dr. Johnson from Mr. Joseph Fowke, Nundcomar was represented as a person of the strongest mental powers the writer had ever known among the natives of India. In person he was tall and majestic, robust yet graceful, his eye was piercing, and his penetration so keen, that it was impossible to conceal from him any thing he wished to know. He was obeyed and honoured by his countrymen, after he was stripped of his power, and had no means of commanding respect but by his personal qualities. In the last scene of his life, Nundcomar was described by Mr. Macrabie, the sheriff, as serene, collected, and firm, without the least appearance of dejection, or affectation of unconcern. Sir Gilbert here read Mr. Macrabie's minutes of what passed between him and the Rajah on the evening before his execution, and at the gallows next day, in the following words:

"Hearing that some persons had supposed Mahraja Nundcomar would make an address to the people at his execution, I have committed to writing the following minutes of what passed both on that occasion, and also upon my paying him a visit in prison the preceding evening while both are fresh in my remembrance.

"Friday evening, the 4th of August, upon my entering his apartments in the gaol, he arose and saluted me in his usual manner. After we were both seated, he spoke with great ease, and such seeming unconcern, that I really doubted whether he was sensible of his approaching fate. I therefore bid the interpreter inform him,

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that I was come to show him this last mark of respect, and to assure him that every attention should be given the next morning which could afford him comfort on so melancholy an occasion; that I was deeply concerned that the duties of my office made me of necessity a party in it; but that I would attend to the last to see that every desire that he had should be gratified; that his own palanquin, and his own servants should attend him, and that such of his friends, who I understood were to be present, should be protected. He replied that he was obliged to me for this visit, that he thanked me for all my favours, and intreated me to continue it to his family; that fate was not to be resisted, and put his finger to his forehead—"God's will must be done." He desired I would present his respects and compliments to the general, colonel Monson, and Mr. Francis, and pray for their protection of Raja Gourdass; that they would please to look upon him now as the head of the Bramins. His composure was wonderful; not a sigh escaped him; nor the smallest alteration of voice or countenance, though I understood he had, not many hours before, taken a solemn leave of his son-in-law, Roy Radicum. I found myself so much second to him in firmness, that I could stay no longer. Going down stairs, the gaoler informed me, that since the departure of his friends, he had been writing notes, and looking at accounts in his usual way. I began now to apprehend, that he had taken his resolution, and fully expected that he would be found dead in the morning; but on Saturday the 5th, at seven, I was informed that every thing was in readiness at the gaol for the execution. I came here about half an hour past seven. The howlings and lamentations of the poor wretched people who were taking their last leave of him are not to be described. I have hardly recovered the first shock, while I write this, above three hours afterwards. As soon as he heard I was arrived, he came down into the yard, and joined me in the gaoler's apartment. There was no lingering about him, no affected delay. He came cheerfully into the room, made the usual salaam, but would not sit till I took a chair near him. Seeing somebody (I forget who) look at a watch, he got up, and said he was ready, and immediately turning to three Bramins, who were to attend, and take care of his body, he embraced them all closely; but without the least mark of melancholy or depression on his part, while they were in agonies of grief and despair. I then looked at my own watch, told him the hour I had mentioned was not arrived, that it wanted above a quarter of eight, but that I should wait his own time, and that I would not rise from my seat without a motion from him. Upon its being recommended to him, that at the place of execution he would give some signal when he had done with this world, he said he would speak. We sat about a quarter of an hour longer, during which he addressed himself more than once to me;—mentioned Rajah Gourdass, the General, colonel Monson, and Mr. Francis, but without any seeming anxiety: the rest of the time, I believe, he passed in prayer; his lips and tongue moving, and his beads hanging upon his hand. He then looked to me and arose, spoke to some of the servants of the gaol, telling them that any thing he might have omitted, Rajah Gourdass would take care of; then walked cheerfully to the gate, and seated himself in his palanquin, looking around him with perfect unconcern. As the deputy sheriff and I followed, we could make no observation upon his deportment, till we all arrived at the place of execution. The crowd there was very great, but not the least appearance of a riot. The Rajah sat in his palanquin upon the bearer's shoulders, and looked around at first with some attention. I did not observe the smallest discomposure in his countenance or manner at the sight of the gallows, or any of the ceremonies passing about it. He asked for the Bramins who were not come, and showed some earnestness, as if he apprehended the execution might take place before their arrival. I took that opportunity of assuring him, I would wait his own time, "it was early in the day, and there was no hurry;" the Bramin ssoon after appearing, I offered to remove the officers, thinking that he might have something to say in private, but he made a motion not to do it, and said, he had only a few words to remind them of what he had said concerning Rajah Gourdass, and the care of his Zenana. He spoke to me, and desired that the men might be taken care of, as they were to take charge of his body, which he desired repeatedly might not be touched by any of the by-standers; but he seemed not in the least alarmed or discomposed at the crowd around him. There was some delay in the necessary preparations, and

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from the awkwardness of the people, he was no way desirous of protracting the business, but repeatedly told me he was ready. Upon my asking him if he had any more friends he wished to see, he answered he had many, but this was not a place nor an occasion to look for them. Did he apprehend there might be any present, who could not get up for the crowd? He mentioned one whose name was called, but he immediately said, "it was of no consequence, probably he had not come." He then desired me to remember him to general Clavering, colonel Monson, and Mr. Francis, and looked with the greatest composure. When he was not engaged in conversation, he lay back in the palanquin, moving his lips and tongue as before. I then caused him to be asked about the signal he was to make, which could not be done by speaking, on account of the noise of the crowd. He said he would make a motion with his hand; and when it was represented to him, that it would be necessary for his hands to be tied, in order to prevent any involuntary motion, and I recommended his making a motion with his foot, he said he would. Nothing now remained except the last painful ceremony. I ordered his palanquin to be brought close under the gallows, but he chose to walk, which he did more erect than I have generally seen him. At the foot of the steps which led to the stage, he put his hands behind him to be tied with a handkerchief, looking around at the same time, with the utmost unconcern; some difficulties arising about the cloth which should be tied over his face, he told the people that it must not be done by one of us. I presented to him a subaltern Sepoy officer, who is a Bramin, and came forward with his handkerchief in his hand, but the Rajah pointed to a servant of his own, who was lying prostrate at his feet, and beckoned him to do it. He had some weakness in his feet, which added to the confinement of his hands, made him mount the steps with difficulty. But he showed not the least reluctance, scrambling rather forward to get up. He then stood erect on the stage, while I examined his countenance as stedfastly as I could, till the cloth covered it, to see if I could observe the smallest symptom of fear or alarm, but there was not a trace of it. My own spirits sunk, and I stept into my palanquin; but before I was well seated, he had given the signal, and the stage was removed. I could observe, when I was a little recovered, that his arms lay back in the same position, in which I saw them first tied, nor could I perceive any contortion on that side of his mouth and face which was visible. In a word, his steadiness, composure, and resolution throughout the whole of this melancholy transaction, were equal to any examples of fortitude, I have ever read or heard of. The body was taken down after hanging the usual time, and delivered to the Bramins, for burning."

While this tragedy was acting, the surrounding multitudes were agitated with grief, fear, and suspense. With a kind of superstitious incredulity, they could not believe that it was really intended to put the Rajah to death; but when they saw him tied up, and the scaffold drop from under him, they set up an universal yell, and with the most piercing cries of horror and dismay, betook themselves to flight, running many of them as far as the Ganges, and plunging into the water, as if to hide themselves from such tyranny as they had witnessed, or to wash away the pollution contracted from viewing such a spectacle. Where was such a people afterwards, to be found? Where, but at the feet of the tyrant whom they dreaded? But their homage alone was not sufficient. It was not a banquet rich enough to provoke a gross and sated appetite. Sir Elijah must have the homage of Rajah Gourdass, the son of Nundcomar, as if he wished to drink the warm flowing tears of the family whom he had made wretched, or desired that the lips of the son should kiss from his hands the blood of the father whom he had murdered: thus completing the satisfaction, the horrid satisfaction—which he felt in reflecting upon the mischief he had committed.

Sir Gilbert having spoken of the ghost of Nundcomar visiting sir Elijah and demanding justice; concluded thus: "The blood of the murdered Rajah is on all our heads! The cry, the clamour of blood is still ringing in our ears, and bursting our walls for vengeance!—to your justice, therefore, I commit the culprit, deal with him as he deserves." Sir Gilbert then moved, "That the Committee, having considered the first article, and examined evidence thereupon, is of opinion, that there is ground of impeachment of high crimes and misdemeanors against sir Elijah Impey upon the matter of the said article."

Sir *Richard Sutton* rose next and said;—

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I must confess myself neither inclined nor able to follow the hon. baronet through a speech of fifteen hours, full of great erudition and argument, but shall shortly state such observations as occurred to me on several points as they arose, leaving questions of law to be discussed by gentlemen of greater professional knowledge than I can pretend to. The first topic the hon. member insisted on, was a matter of great surprise to me, as being entirely new, viz. the innocence of Nundcomar. In all the conversation I have heard since this matter was first moved, I have never met with any person, who maintained that opinion. I cannot pretend to keep pace with the hon. member, in a critical examination of the evidence of each witness. I have never indeed thought it necessary to go into such a minute disquisition. I was satisfied with the general conviction I met with, that Nundcomar was found guilty upon the clearest evidence, after a very long trial, during the course of which, the Court, particularly sir Elijah Impey, showed the greatest indulgence towards the prisoner. For this last assertion I must appeal to a most unexceptionable witness, an hon. member of this House, who had been counsel, and a most strenuous advocate for Nundcomar on his trial, and for this purpose will beg leave to read some passages out of the evidence of Mr. Farrer.

"Did sir Elijah Impey or either of the other judges, remark to the jury, that they were to receive no prejudice against the prisoner from Nobkissen's observation, as that was not evidence? Yes, to the best of my remembrance they did. I think sir Elijah personally.—Then reference being made to folio 92 of the printed trial of Nundcomar, Mr. Farrer was asked, Did sir Elijah, or either of the other judges suggest to you, your power of calling Ramnaut and Bulgovind (though not called by the prosecutor) as their names were on the back of the indictment? Yes, certainly they did. Sir Elijah, I think, personally did.—Did sir Elijah, or either of the judges, desire Nundcomar to consult with his counsel, on the propriety of examining Kissen Juan Doss, respecting the Corornama? I perfectly remember that Nundcomar desired Kissen Juan Doss, after he had finished his examination, might be called back, for that he had a question himself to ask him. That the Chief-justice personally desired he might consult his counsel, to see whether the question was proper or not, and that I myself answered, having spoke with Nundcomar before, that I believed it was not improper, or to that effect; but I do not know that it respected particularly the Corornama, only general.—Do you now think that the question persevered in by Nundcomar, after the suggestion from the bench, contributed very materially to his conviction? From what appears to have been said by the Chief-justice in his summing up, it certainly appears very much, that it must have had that consequence, but what might operate on the minds of the jury, it is impossible for me to say." Nothing can prove the favour of sir Elijah to the prisoner stronger, than the caution with regard to calling Kissen Juan again, the neglect of which proved the ruin of the prisoner. To this I may add the letter of Mr. Brix, joint counsel with Mr. Farrer, which shows that sir Elijah borrowed their notes to make use of in favour of Nundcomar. I have in my hand, for the inspection of any gentleman, the original notes of sir Elijah Impey, No mutilated book. They may see in every page memorandums of questions to be asked, and observations to be made, all in favour of the prisoner.

The next thing advanced by the hon. baronet was, that on the motion for sir Elijah's recall for the acceptance of the office of Sudder Adawlut, it was the professed intention to prosecute him for the affair of Nundcomar. If so, it was a professed intention kept within their own breasts; for I must appeal to the recollection of gentlemen present, that through that whole debate not a syllable was dropped of any such intention. The hon. baronet next contended, that the concurrence of the other judges in the guilt, was no plea in bar to this prosecution. This I am ready to allow, but it must at the same time be allowed me, that where judges or other persons do a solemn deliberate act, upon advice between them, they have a right, when accused, to each other's assistance in their defence; and when one is separately charged, he has farther a right to the testimony of his colleagues in his favour. The hon. member argues against the delay this would have occasioned. It would have been impossible, says he, to have had the other judges home under two years; but he should recollect, that eleven whole years passed after all the evidence relating to the affair of Nundcomar was laid before the Com-

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mittee, before the charge was brought against sir Elijah; that during seven years of that time, he was suffered to continue at the head of that court, after this supposed atrocious crime, and has now been four years in England; that two of the judges still remained on the bench there; that the hon. gentleman was a constant attender, and active member of that Committee, and was at liberty any day to have moved the recall.

The hon. member in the next place repeated what I conceived to have been long exploded—the assertion, that lord Mansfield had expressed his opinion, of the execution of Nundcomar as a "legal murder." In answer to this I will read to the Committee a letter from a gentleman giving an account of a conversation with his lordship on that subject:

"*Portland-place, Dec.* 24, 1787.

"I yesterday dined with lord Mansfield at Caen-wood, and told him of the report and my contradiction of it. He said, I was very right; for, that so far from giving an opinion on that affair, he never had formed one. However, after some reflection on what could occasion such a report, he told me the following anecdote, as imagining that by the ingenuity of malevolence, it could be tortured into a construction of somewhat that might lead the present prosecutors of sir Elijah Impey to call his a similar case. When lord Mansfield was Attorney-general, he discovered that there existed a race of monsters called Thief-takers, who had for some time made a practice of entering into a combination to charge several innocent persons with highway robberies, for the sake of the reward; and by false evidence, they convicted them, and had them executed. He was so shocked, that he took great pains to get at the bottom of this infernal combination, and prosecuted several of the parties. Some of the judges were of opinion that they could be indicted only for perjury; but lord Mansfield brought the indictment for 'legal murder'—that is, murder occasioned by a legal process; and nine judges out of twelve were of his opinion, on his proving the combination. This, I suppose, is the only grounds for supposing lord Mansfield ever mentioned the term 'legal murder.'"

As the opinion of other respectable law authorities has been likewise cited against sir Elijah, I will also read extracts of original letters to sir Elijah from Mr. Justice Blackstone and the late lord Ashburton.

"*London, Jan.* 30, 1779.

"I have the more easily yielded to him this letter, as it gives me an opportunity of congratulating you on the high reputation which yourself and your colleagues in office have acquired among all dispassionate men here in England by your prudent and impartial administration of justice on many very delicate and important occasions. That your present situation may prove as beneficial in the end, as it has been honourable to you in the beginning is the sincere wish of Dear Sir, &c. W. BLACKSTONE."

"*January* 5, 1786.

"The publication of the trials has been of use, as it has obviated abundance of ridiculous and groundless stories. I see nothing in the proceedings to disapprove of, except that you seem to have wasted more time in the discussion of the privileges of ambassadors than so ridiculous a claim deserved. J. DUNNING."

The hon. baronet then came to the part taken in this affair by a near relation of his, Mr. Alexander Elliot, in the tribute due to whose great abilities and excellent heart I am persuaded not a single gentleman will dissent from him; but as to the opinion that his partiality for Mr. Hastings was carried so far as to invalidate his testimony, I flatter myself very few will agree with him. But the hon. member goes farther, he affirms, that Mr. Elliot gave no testimony in favour of the Court; and that he was simply the carrier of a letter. In answer to this, I will read to the Committee an extract of a letter from Mr. Elliot to sir Elijah:—"My dear Sir; your friends in council will, I doubt not, wish to put your conduct in as unfavourable a light as they can; but you have all through so apparently the advantage in your disputes with them, that I am not in the least afraid of their representations and assertions, however coloured and however downright and untrue they may be. The last is a harsh expression; but we already know not harsher than they deserve. I beg leave, however, to assure you, that my principles, as well as my feelings, will make me warm in defending the Court and you, I say defending, because every man is able to tell the truth, and because I am sensible the cause of the Court against the council requires nothing but a faithful detail of what has past, without the smallest attempt to colour or conceal any of their proceedings. It is a subject

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which, if ever I am listened to at home, I shall dwell upon with peculiar satisfaction. We have not yet left Cudjeree, nor am I sure we shall sail to-day, though I cannot find out the reason that detains us." This letter was written whilst at anchor in the mouth of the Ganges, having Nundcomar's trial in his pocket, and plainly referring to this business. After this, I think it will not be affirmed that Mr. Elliot gave no testimony in favour of the Court.

The hon. member then alluded to part of the evidence of another hon. member, relating to the petition of Nundcomar, laid before the Governor and Council. On this occasion, from what passed between me and the hon. gentleman, I think myself justified in putting the question to him, whether he avows himself the author of a pamphlet intituled, "Answer of Philip Francis, esq." As that hon. gentleman does not give me satisfaction, on this head, I will explain to the Committee on what ground I think myself justified to ask it. On the day before the recess, when the hon. member was to have been examined, he told me he should not do as sir Elijah had done; he would put his defence in print into his hands. It was at the printer's, and as soon as it was ready to be delivered, he would send me a note. I was in continual expectation of receiving it, when, on the day of his examination, he proposed to deliver it in writing, and intimated that he had communicated his intention to me. I found myself obliged to explain, that I had not heard from him of any such intention, and stated what had actually passed between us. I must now suppose the pamphlet published by that hon. gentleman, and affirm that it contains a falsehood which I will point out to the Committee. The hon. member represents, that "While sir Elijah Impey debated the point with us, whether Nundcomar ought to be relieved or not, and while he was amusing himself with writing long letters on the subject, the old man, above seventy years of age, resolutely persisted in refusing all manner of food for more than eighty hours." Now, it will appear, that before sir Elijah received the letter from the Governor and Council, of the 8th of May, he had already sent a medical gentleman to examine the situation of Nundcomar, had ordered the sheriff to give him every possible accommodation, and had consulted the pundits how far he was prevented from performing his religious rights. He then advances, which is the falsehood I alluded to, "That these pundits, in point of circumstances and situation, were very low and indigent persons; that they received small salaries for their attendance on the Supreme Court and were removeable at the pleasure of the judges." Whether this falsehood was intentional, or arose from want of recollection, I do not pretend to decide; but it will appear from the papers laid before the House, that there were no pundits belonging to the Court in 1775: that the applications from the Court to the Governor and Council for their appointment was two years after, in 1777, and it is extraordinary it should have escaped the memory of the hon. gentleman, as he gave a violent opposition to this, as to every other measure of the court of judicature. As to the safety of general Clavering, I was not present at the hon. gentleman's first speech, but understood the word "personal" safety to have been used. That word was dropped in the hon. gentleman's evidence, and the danger was explained to be that of a prosecution for a libel. I believe every body is well acquainted with the abilities of that hon. gentleman, and his extraordinary application, and will scarce suppose, that in the time that elapsed after his appointment here, his voyage to Bengal, and residence of several months there, he never read the article of the Charter which particularly concerned the Governor and Council.

The hon. mover of this charge confesses, that although there was no direct proof of conspiracy or connexion in the case between sir Elijah Impey, Mr. Hastings, and the prosecutor, yet it might be collected from presumptive evidence, and he quoted a decision of lord Mansfield to this effect. I perfectly agree with him in this. Where two or three persons do several voluntary acts, all tending to one bad end, the conspiracy may be presumed or inferred; but can there be any such presumption in the case of a Court obliged to act *ex debito justiciæ*, in a matter regularly brought before them?—The hon. member then called in question Mr. Driver's declaration to Mr. Farrer of his intention to prosecute Nundcomar for forgery so early as March 1774, long before the arrival of the judges. He observes, that the motion for getting the papers out of the Court of Dewannee Adaulet says nothing of that intention; but was it necessary, or what other mo-

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tives can be assigned for it? Besides, it appears from Mr. Farrer's evidence, that the charge of forgery appeared on the face of the proceedings in that court.

The hon. member then takes up the exploded ground of an *ex post facto* law. It is now, I hope, well understood, that the English criminal law was carried to Calcutta by the 26th Geo. 2.: that instructions were sent out with it for the prosecution of all manner of felons: that after the proclamation of the president and council in 1762, the jurisdiction was regularly exercised. We have before us a long list of persons convicted of felonies under the English laws, and one particularly, of Radachund Metre, for this very crime of forgery, in 1765. Much use is endeavoured to be made of the pardon granted in this case; and the hon. member quotes the expressions in the petition of the natives, sinking the reason given by the President and Council, viz. "That this man's condemnation will alone be a sufficient example to deter others from the commission of the like offence, which is not held so heinous in their eyes." It had not this effect. We find Nundcomar committed this crime a few years after, and in 1785, sir William Jones mentions one in custody for forgery. The Directors when they sent out the pardon, only object to the indictment, using the word 'present' instead of 'publish.' The hon. member on this occasion went, in my mind, into a great waste of deep learning and ingenious reasoning on the nature of charters, the right of the Crown to grant them, the danger to liberty from the influence which the Crown might gain from Bengal, the right of conquest, the manner of our obtaining our possessions in that country, the several grants of the Moguls, &c. the drift of all which was, to show that the King had no right to grant any charter, nor the Parliament to pass any act for the government of that country; and that we were mere Zemindars, tenants of the Great Mogul; but, if I were to grant all this, would it be possible to impeach a judge for doing his duty under the charter appointing him, itself founded on an act of the legislature?

The hon. member afterwards quoted a passage from Blackstone's Commentaries to show, in the instance of the American colonies, that the British laws were not all necessarily carried there. Only those applicable to their situation—not the spiritual courts. To show that sir Elijah was perfectly sensible of this distinction, I need only read part of the Hindoos' address, and the answer of sir Elijah Impey. [Sir Richard here read them.] A custom, on allowance from their religion, may certainly be pleaded in many cases, which may be crimes by our law, but surely no one can say, that custom can be pleaded for forgery—a *malum in se* not a mere *malum prohibitum*—subversive of the foundation of all society.

The hon. baronet laid great stress on the supposed dissent of sir Robert Chambers. I must observe, that, if this was allowed, it by no means follows that he was right in law, and his three colleagues wrong; but I think it will appear, that he never dissented as to the Act of the 2d Geo. 2, being in force in Bengal. The hon. member endeavoured to start a contradiction between the account given by sir Elijah and that by Mr Farrer; but, if the evidence of the latter, who did not pretend to be accurate in expression, be examined, it will appear to say the same thing:

"Mr. Justice Chambers immediately called for the indictment. It was handed up to him. After perusing it for some time, he expressed himself to the following effect, as well as I am able to recollect it: That he had great doubts whether or not the indictment was well laid, being for a capital felony on the 2nd Geo. 2. That he conceived that act of parliament was particularly adapted to the local policy of England, and to the state of society and manners there; where, for reasons as well political as commercial, it had been found necessary to guard against the falsification of paper currency and credit by laws the most highly penal. That he thought the same reasons did not apply to the then state of Bengal. That it would be sufficient, and as far as the Court ought to go, to consider Bengal, in its then state, as upon the same footing that England had been between the statute of the 5th Eliz. and that of the 2nd Geo. 2. And that under the clause in the charter, which empowers the Court to administer criminal justice in such and the like manner as justices of Oyer and Terminer, and gaol delivery, could or might do in that part of Great Britain called England, or as near thereto as the circumstances and condition of the person and places would admit of; the indictment might be well laid on 5th Eliz. He therefore proposed from the bench, that that indictment should be

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quashed, and that the prosecutor might be at liberty to prefer a new one on the 5th Eliz. or otherwise, as he should be advised."

It appears from hence, that sir Robert Chambers conceived that there was an option to apply the statute of Geo. 2, or that of 5th Eliz.: and that he preferred the latter, as supposing it more applicable to the actual state of the country, in point of commerce, &c. How the ground of this reason turned out in fact, appears from what Mr. Farrer says afterwards:

"The chief justice immediately proceeded to give his opinion on sir Robert Chambers's proposal. If I am asked to state the substance of such opinion, I am afraid I shall not be able to do it so as to do justice to sir Elijah Impey, and the other two judges who concurred with him in opinion, or so as to give entire satisfaction to my own mind; but having said thus much, if the Committee wish to know the impression it made on my mind, I am ready to state it to the best of my power. That he thought the indictment was *primâ facie* well laid on the 2nd Geo. 2. That he had always conceived India, particularly the town of Calcutta (which was as far as it was necessary to go on the present occasion), to be greatly commercial, and that in commercial matters, as well as in matters of revenue, and other money transactions of a public as well as a private nature, the most important, as he conceived, were carried on through the medium of paper currency and credit; and that as to the state of society and manners, that country could by no means be considered as in an uncivilized or uncultivated state; but that on the contrary, civilization had made a great progress there, as appeared from history at a very early period—and that it might perhaps be rather deemed to be degenerating and redescending, for want of wholesome laws to enforce a due attention to just dealings, than to stand in need of maturing or bringing to great perfection before such laws could be applied to them. That, in fact, the particular law in question had been before applied in Calcutta, as well as other criminal laws of England, before the establishment of that court; and if I do not very much mistake, he intimated a doubt whether the instrument charged to be forged came within the description of any of the provisions of the 5th Eliz. That he thought that, *primâ facie*, the one statute was as much in force as the other; and that therefore he was of opinion, the indictment was *primâ facie*, well laid, and that the trial ought to proceed, and in the course of its progress, evidence be taken how the facts stood, on which his opinion was founded. This is the impression I have on my mind of it; but I cannot speak with any great degree of certainty at this distance of time, having no note of it. So far as my recollection serves me, evidence was taken to these facts from all or most of the principal native inhabitants of Calcutta, who were examined during the course of the trial, and who were certainly persons as well qualified to speak to them as any in Calcutta, being all persons who had been much conversant both in public and private transactions of great magnitude; viz. Huzzerah Mul Baboo, Cossinaut Baboo, Raja Nobkissen, and Coja Petruse. So far as my memory serves me, their evidence uniformly went strongly in support of the facts on which sir Elijah grounded that part of his opinion, which was founded in fact; and, if I do not very much mistake indeed, the same facts were also corroborated by more than one of the jury; I think, two of them at least. Very old inhabitants of Calcutta, and men of great business and credit, were sworn for that purpose during the trial. By facts, I mean the state of commerce, paper currency, and credit in Calcutta, and I find at this moment a strong impression on my mind, of my feeling extraordinarily hurt at it, and of my communicating such my feelings to those with whom I was most confidential, the late Mr. Monson and sir John Clavering, as this was the principal point (independent of the merits of the case itself) on which I depended."

This suggests a natural reason, for sir Robert's acquiescence afterwards. In fact, he sat out the whole trial, joined in over-ruling the motion in arrest of judgment, was present at the passing the sentence, signed the calendar, was the first to propose seizing Nundcomar's effects; and, what is still stronger, joined with the other judges in a letter to the Court of Directors, of August 2, 1775, after sentence, and before execution of Nundcomar, in these words, which relate directly to this case: "Our judgments have, in every instance, been unanimous, whatever representations may be made to the contrary." After this, can any one say, that sir Robert Chambers did not concur with his brethren in the judgment past on Nundcomar?—The attempt to fix the drawing

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of the indictment on sir Elijah, from the evidence of Mr. Tolfree, is perfectly ridiculous, as it does not even go near to fix it on Mr. Le Maistre. The threat said by Mr. Farrer to be thrown out by Mr. Le Maistre, of the prisoner's being precluded from pleading over, in case of his plea to the indictment being over-ruled, a doctrine always denied by sir Elijah, cannot, from Mr. Farrer's evidence, be pretended to be brought home to any other of the judges.

Mr. *D. Pulteney* said, he was in hopes that, as he was absolutely unacquainted with sir Elijah Impey, he should not wander so much from the subject as others appeared to him to have done, either through enmity or friendship. The question seemed to him sufficiently simple, and within the apprehension of an ordinary juryman. With respect to the legal points argued at such length by the mover of the charge, he considered most of them as a needless discussion on the present occasion: the true point to be considered by the House was, not whether English criminal laws were properly introduced into Calcutta, nor whether, when actually existing there, they ought to have been suppressed by the new judges; but whether these were points so clear and palpable that the judges in wandering from them, had discovered evident proofs of that *malus animus* which was alone criminal, and whether the House was prepared to prove this before the Lords? Were the judges seriously expected to know, without any other information, that they were taken by parliament from the English bar, and sent out to India to supersede the English laws? Yet, if they did not know this, they were by no means criminal. And after the Regulating Act of 1781, wherein all the defects of the Supreme Court were specifically pointed out and remedied, parliament having taken no notice whatever of a defect in the criminal law, as it respected the case of Nundcomar, and having confirmed the chief justice in his office; when the practice was so unequivocally sanctioned here, was one House now to call upon the other to disavow their opinions so fairly inferred, and make that disavowal the ground-work of a criminal prosecution? With respect to the allegations in the charge, as to matters of fact, he should consider how some of them, of great importance, were supported or disproved by Mr. Farrer, in every point of view, the most material witness they could expect to produce before the other House. The charge recited, that sir Elijah was the author and instigator of the criminal prosecution against Nundcomar. Mr. Farrer, counsel for Nundcomar, informed the Committee that steps had been taken for this purpose, six months before sir Elijah's arrival in India. The Committee had even discovered from Mr. Farrer, whose evidence was so full and so impartial, that the warrant of commitment was signed by two other judges, and not by the chief justice; and yet, to fix the main guilt on him, and prove a criminal collusion with Mr. Hastings, it seemed necessary to prove him not only the first, but the sole abettor of the prosecution; in fact, if the House were to go up to the House of Lords, with the present evidence in their possession, almost the first account they could give of the chief justice's malignity towards Nundcomar, would be, that he sent him medical and religious assistants in his confinement. It was insinuated in the charge, that the chief justice should have quitted his judicial character to take into his consideration the accusation preferred by the prisoner against Mr. Hastings. Thus, at the commencement of the charge, he was accused of having quitted his judicial character from a political connexion with Mr. Hastings; and in its progress he was accused of having given no place to political considerations on the bench. Fitzharris's case, however, he thought would always remain a proof, if any were necessary, that the good sense of mankind would constantly protect a judge in the most violent political heats, if he did his duty resolutely in court. What was the case of Fitzharris? He knew himself guilty, like Nundcomar; he looked out for protection against the laws like him, paid court to a ruling party, and preferred accusations against the duke of York, their avowed enemy. Fitzharris was thought so useful a political associate, that the House of Commons preferred an amicable impeachment against him, to preserve him from the courts below, which he pleaded in bar, but the judges overruled the plea, and he was, like Nundcomar, convicted and executed; and so averse were men's minds from countenancing judges in entering into political discussions on the bench, that the proceedings of the Court of King's-bench had ever since been very generally approved. —With respect to the chief judge's conduct during the trial, he thought he

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had in many instances, particularly in the summing up, been as favourable with the prisoner as was consistent with his duty, and in some instances with more indulgence than the nature of his duty strictly could support. The refusal to respite him had been much dwelt on; but, in answer to this, it had been proved that seven weeks had been granted the prisoner, which was a sufficient time for the discovery of any falsehood in evidence, and during that time, it had been asserted by sir Elijah, that he had offered a bribe to one of the other judges, and that he was even apprehensive he would be rescued by force; but, at all events, the power to respite was discretionary, and the Committee would not presume criminality, much less could they prove it from any evidence before them.—Nundcomar had, after the precedent of Radachund Metre, committed the forgery with his eyes open to the possible consequences of his crime, and he really thought him justly convicted; and should the House, after the credit they had acquired by another impeachment, not perhaps so much to punish Mr. Hastings as to reprobate those principles of conduct which he had avowed in his defence, without any such defence to reprobate, and without a tittle of proof, sacrifice their own dignity to such an ineffectual charge as the present? Could they themselves, on such evidence as they had before them, seriously believe that four judges, not Pizarros educated in rapine, as the worthy baronet had quoted, but in a liberal profession at the English bar, could, all at once, have plunged into the commission of a crime so peculiarly infamous, that he not only did not believe its existence in the present case, but that it ever had existed in any civilized age or country? He had not the slightest hesitation in saying, that his mind was fully made up on the subject, and that he should meet the motion with a negative.

The *Solicitor General* stated, that sir Elijah Impey left this country in possession of a character exceeded by none amongst his own fraternity. If the maxim *noscitur è sociis* had any truth in it, he was at that time a deserving man, as he enjoyed the friendship and esteem of the most distinguished men then and now in Westminster-hall. A preceding high character was no answer to positive evidence of guilt; but it certainly had the effect of rendering those who were in any stage to judge of that guilt cautious, and made the clearest evidence of that guilt necessary. In the present case, the whole evidence was merely conjectural. The question arising from the words of the charge was, Whether sir Elijah, in conspiracy with Mr. Hastings, had, under the forms of law, murdered Nundcomar, in order to suppress his testimony before the council? This had been maintained by the hon. baronet on the grounds of want of jurisdiction in the Court, the conduct of the Court during the trial, the observations on the evidence, and the refusing an appeal or respite. The first consideration, he contended, was entirely foreign to the present case; if it should appear that the Court had, in common with all other persons, conceived that they had complete jurisdiction. But he desired to enter his fullest dissent to the proposition, that neither the Crown nor Parliament had power to transfer the law of England to Calcutta and its inhabitants. He conceived it to be clear, from the constant practice of this kingdom, verified by its history and records, that when a new territory was embraced by the kingdom of Great Britain, that his Majesty might communicate so much of the laws of England as could be applied to its state and condition. In answer to the hon. baronet's demand of many decided cases, he must borrow lord Mansfield's argument in the case of Grenada, which had been argued from, that such had been the eternal practice, and no authority could be found to the contrary. He then went into all the arguments to show, that where a subordinate legislature is given by the King's prerogative, his Majesty cannot add to, diminish, or alter, that portion which had been given of the English law; but that if it was given by letters patent, when those letters patent are surrendered, and new ones given, the case is as if no former letters patent had been given; and the letter conveyed the subsisting applicable law. Be this however as it might, the universal opinion was that of sir Elijah Impey. This he could prove from the conduct of parliament, which, for ten or twelve years past, had known that English criminal law had taken place in Calcutta, and till that hour had never questioned it—that this very subject of regulating the extent of the Court's jurisdiction, was considered by Parliament, and and an act passed in 1781, but no objection ever was conceived—that the Directors many years ago had sent out in-

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structions respecting the trials for burglaries, all the variety of larcenies, horse-stealing, &c.—that in the case of Radachund Metre, neither lord Northington, then chancellor, nor the officers of the crown, had conceived this idea; but a pardon was granted, on the grounds of an imperfection in the indictment, and great doubt on the evidence. In the present case, he observed, that he would answer the question put to the honour of individual members, and declare, that had he been upon the jury, he should have pronounced Nundcomar guilty.—He entered into a discussion of the evidence on both sides, and showed, that, on the part of the prosecution, two decisive circumstances appeared, independent of the parole evidence; first, that the seal of Comaul Odein, put to the forged bond, was proved to have the same flaw in the stone with another impression of a date long preceding, and could only be his seal, and not the Comaul Odein set up by Nundcomar: next, a rajah who was examined, deposed, that he knew the writing of Sealabut, another pretended witness to the bond, and denied it to be his handwriting. His veracity was fully proved by several different papers being shown to him, and he picked out the only three which were admitted to be the real Sealabut's hand-writing. One person, however, declared he would answer no question on cross-examination, unless he was permitted to begin at the commencement of his story; another refused to answer at all, although Mr. Elliot swore that he clearly understood the question; and as to Kissen Juan Doss, he entirely agreed with sir Elijah, that his prevarication and contradictions were so gross, when called back by the prisoner, that no credit could be given to him. The point was material, whether the prosecutor had seen a settled account. If he had, it was decisive in the prisoner's favour; but his account of this evidently showed it was false. The Solicitor-general adverted to sir Elijah's appeal to the jury, and hundreds of bystanders, on the witness's distress when detected, and urged that no judge could dare to make an appeal to the eye-sight of a crowded audience when he knew that it was false. He observed that this prosecution was proved by Mr. Farrer, to have been determined upon by Mr. Driver, before the judges arrived in India, and that the reasons why Nundcomar did not sue upon the forged bond in the Adaulet court were, that his witnesses contradicted themselves, and Nundcomar would not swear to the truth of the debt. He read a long list of convictions upon English statutes before the arrival of the judges, and instructions from the Court of Directors how to proceed against native prisoners. He next contended, that sir Robert Chambers must be considered as having fully concurred with the Court in the end, and observed, that his objection must have been hasty and without consideration, because the statute of Elizabeth respected the forging of title deeds to lands, and inflicted the penalty of imprisonment for life, loss of all property, and loss of ears, slitting the nostrils, and searing them with hot iron. He maintained that his signing the calendar was a death warrant, and although it was physically possible that one of four judges (whose concurrence was not necessary) might think it necessary to sign, yet it was all but impossible, that a dissenting judge should join in that painful office. His only doubt originally was, whether capital punishment for forgery was necessary in that town of Calcutta, in and for which courts of Oyer and Terminer and Gaol Delivery had been established in all criminal cases by act of parliament; but, Mr. Farrer, in his evidence, declared, that the cloud of witnesses to that fact had been such as to beat him out of his own opinion; and sir Robert Chambers had declared, in a letter to lord Rochford, that the Court had concurred in all their judgments. He desired farther to advert to the genuine sentiments of the council general, when the conviction was first known to them, and protested against an honourable member of that council, now in the House, conceiving that he meant to turn the eyes of the House from the question upon him. If men's minds, he said, were ever to be known, it was in an accidental private conversation. This Mr. Farrer proved had taken place, when he proposed at colonel Monson's to Mr. Francis, that the council should petition the court in favour of Nundcomar. Mr. Francis did not then apprehend that his life, or that of any one else, would be endangered by such a step, but readily assented. General Clavering, so far from imagining that the court had misconducted the trial, coldly said, it was a private matter, and he would have nothing to do with a man convicted of forgery; and col. Monson agreed with him. When the petition of Nundcomar, presented to general

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Clavering, which he had not opened till after his execution, was discussed in council, it appeared that Mr. Francis moved to burn it by the hands of the hangman; not as being a libel, though true, as Mr. Francis now urged, but to clear the character of the judges, and prevent its going beyond the walls of the council-chamber. With regard to the appeal, Mr. Farrer admitted, that no legal ground could be laid for it; yet a respite was certainly discretionary. He declared, that as far as a man not conversant in the circumstances of that community could judge, he should have respited; but, in that very delicate part of a judge's office, he should require demonstration from circumstances, as plain as a direct confession, that the judge who forebore to interpose had a bye motive, which he thought synonimous to a corrupt motive. Not a particle of evidence had been produced in the present case to show this. It has indeed been said, that many observations were omitted in the summing up; but was it to be conceived, that a judge should, on a sudden, hit upon every thing which great ingenuity and industry, and the study perhaps of years, had suggested to the mover of the question? The Solicitor General concluded by contending, that this case was totally destitute of support from substantial evidence, and must fail at the bar of the court of Peers; and therefore, both on the merits here, and the certain result of it there, he should vote against the question.

Mr. *Fox* observed, that the hon. and learned gentleman who spoke last, had declared, that he was not an acquaintance of the parties. He was, Mr. Fox said, as little their acquaintance as the hon. and learned gentleman. Every man had his prejudices and his predilections. He came into the House sometimes with prepossessions, but he always endeavoured to give them as little power as possible, and he never, he trusted, had shown himself dead to conviction. On the present occasion, he accused sir Elijah Impey of a deliberate murder. He thought his friend, the honourable baronet, had argued the points of law ably, and sometimes conclusively. There were some particulars, however, in which he perfectly agreed with the hon. gentleman over the way. He thought his hon. friend was right in saying that sir Elijah Impey was guilty to the full extent of the charge, because, at the same time that he proved that sir Elijah had acted illegally, he proved that he had acted corruptly. His hon. friend had stated, that the statute of the 2d Geo. 2, against forgery, which applied likewise against perjury, was not in force in India. He would not trouble the Committee with respect to the law, except only as to its applicability to that country. If any laws were carried to Calcutta, they were those of England, and not those of Calcutta; now, if it had been the intention of the Legislature to have sent the statute of the 2d Geo. 2 to India, they would have sent it to America also. He asked, were there no bonds, no promissory-notes, in the colonies of North America? Certainly there were. Could sir Elijah, then, with the act before him, say that Great Britain sent that Act to India, though not to Scotland, to Canada, America, and the West Indies? And if commercial concerns had gone on in India for hundreds, nay, as an hon. baronet had said, for thousands of years, without the necessity of having the crime made a capital offence, what occasion was there to enforce the 2d of George 2, in the case of Nundcomar? Mr. Fox reasoned upon this point, and asked whether any man, besides sir Elijah Impey, would have taken upon himself the responsibility of putting to death a miserable individual, under the doubtful operation of that statute? What sort of argument must sir Elijah have held with himself, knowing how the law stood? Must he not have said, "If I had been in England,—at York or at Exeter,—I could not have committed this act? There the king's prerogative of mercy would have been sacred; but here this wretch is in my power, and I will murder him."

Mr. Fox declared he never read the printed account of the trial without a conviction that the accusation contained in the charge, balanced with the evidence, proved Sir Elijah guilty. Every part of it went to establish that fact. What interpretation was to be put upon his whole conduct during the trial? In particular, let the Committee consider the chief justice's artful declaration to the jury, that the question before them was, whether the prisoner was guilty of forgery, or his accusers guilty of a crime worse than murder? What was likely to be the effect of such an insinuation? It would necessarily operate upon the mildness natural to the human mind, and incline them of course to prefer the most lenient option, and think it was better to find the prisoner

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guilty of forgery, than by his acquittal to pronounce his accusers guilty of a worse crime than murder. If it should be asked, whether he thought it likely that men of a respectable and learned profession would disgrace themselves and their profession, by standing forward to defend a member of their own body, if they thought him really guilty, he would say, that he admired their abilities, and venerated their learning; but no abilities, no learning, should protect the person who could suppress the conscious evidence of his own heart, and withhold what might have saved the life of a fellow-creature. It was, to his conviction, extravagant and absurd to say that there was no malice in sir Elijah Impey's mind throughout the trial. As well might he be told of a man's firing a pistol at another in the street, and killing him, and that it was impossible to prove that the man who killed the other had any malicious motive. He thought it a convincing part of his hon. friend's speech, where he had argued that the attestation of a bond was not a material part of it, and that the forging an attestation was not a crime within the reach of the penal statute. If a man was to produce a bond with a forged signature, and forged attestations, Mr. Fox said, he should have good reason to believe the bond to be forged; but not so, where there was a doubt merely as to the attestations being the true attestations of the nominal witnesses; but sir Elijah had told the jury in his charge, that if they believed the attestation, they must condemn the prisoner. Sir Robert Chambers, he observed, had thought that the Act of the 2d Geo. 2. did not apply, and had been of opinion that the forgery ought rather to be tried as a misdemeanor under the 5th Eliz. Mr. Fox here read an extract, in which this was fully stated; and he afterwards observed, that sir Elijah, in his defence delivered at the bar, had endeavoured to persuade the House that sir Robert Chambers had been convinced that his doubts were ill-founded, and had in consequence retracted his opinion. He was far, Mr. Fox said, from approving the conduct of sir Robert Chambers. On the contrary, he thought he had acted very weakly, and that entertaining the doubts which he had stated, it was his duty to have pursued a different line of conduct. But there was no sort of foundation for supposing that he had retracted his opinion respecting the validity of the indictment. It was in evidence on the minutes, that sir Robert Chambers had, upon the motion for the arrest of judgment, expressly declared that he had not retracted his opinion. What was still stronger, it was plain from his conduct in a cause, tried long since, that of Nundcomar, that he had not for years afterwards retracted his opinion, and he was convinced that he had not retracted it to that day. What, then, ought to have been the conduct of sir Robert Chambers? Mr. Fox spoke of the known bad character of the chief witness for the prosecution, and said, as sir Elijah Impey was well acquainted with his gross perjuries and prevarications, he ought to have stated the fact to the jury, and put them upon their guard against the testimony of such a witness. Had that been the case, he asked, was there one man in the Committee hardy enough to say, that if he had been upon the jury he would not have acquitted Nundcomar?

After dwelling upon the various circumstances of the trial, he came at length to speak on the refusal of a respite, and drew the line of distinction between the case of a capital sentence in England and in India. Here it is always open to a respite; and a respite is uniformly granted where any doubt has arisen on the trial. In Calcutta, a doubt had arisen of sufficient weight to authorize, nay, to make a respite almost an indispensable act of justice. The hon. gentleman who spoke first in the debate, in defence of sir Elijah Impey, had given the very worst argument for him that could be urged, when he enumerated the number of his accomplices; as if it were any diminution of a man's guilt that others were guilty with him! With regard to Mr. Justice Le Maistre, he had, in his observation on Nundcomar's counsel desiring that he might plead over, been proved guilty of an ignorance in the practice of the law, that he should have been ashamed of, had he himself committed it. He reasoned upon the part of Mr. Farrer's evidence, which states that Mr. Justice Le Maistre shook his head, and said, No, no! when Mr. Farrer expressed his conception that, in clear strictnes of law, in a case of capital felony, a defendant had a right to plead over. In that case, he said, sir Elijah Impey ought to have explained what the law was. He argued upon the confederacy alleged to have existed between Mr. Hastings and sir Elijah Impey,

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and said it was from all the circumstances of the case strongly to be presumed, and being so presumed, a corrupt motive was the necessary inference, since no two people would agree together in so wicked a thing as the taking away the life of a fellow creature without some corrupt motive. He took notice of sir Elijah's having stated that a bribe had been offered to one of the judges, and having said that it was a reason for executing but none for respiting. He likewise adverted to the suggestion, that it was suspected the Commander-in-chief would rescue Nundcomar, and argued upon the whole as an idle pretence, to cover the meaning of the chief justice to show to the people of India his own superior power. But admitting, for a moment, that general Clavering, colonel Monson, and Mr. Francis, behaved ill in respect to their conduct with regard to Nundcomar, did that acquit sir Elijah Impey, or prove that he ought not to have granted a respite?

Mr. Fox declared that he agreed perfectly with his hon. friend, that the Committee ought not to vote for the question, unless it was proved that sir Elijah had acted from corrupt motives; but let them consider all the train of circumstances that marked and characterized the whole proceeding. Let them recollect that the quarrel between Mr. Hastings and Nundcomar happened but a few days before the commencement of the prosecution; that party heats and divisions prevailed between the Governor-general and the majority, and in consequence throughout Bengal; that sir Elijah was confessedly the freind of Mr. Hastings, and as much a party man in India as he (Mr. Fox) was in this country; that the letter of sir Elijah to lord Rochford, and also the letter written from the mouth of the Ganges by Mr. Elliot, which an hon. baronet had read, proved this circumstance, that Mr. Elliot was sent out to England to carry an account of the trial, artfully prepared for the purpose of deceiving the people of this country, relative to that extraordinary transaction; that sir Elijah had refused a respite where a respite ought to have been granted, as he had heard sir Robert Chambers declare he still entertained his doubts of the validity of the indictment; that they found him on the trial browbeating Mr. Farrer for having done no more than his duty to his client, and acted like a gentleman and a friend to humanity. When he reflected on all these facts, could he say that he did not see that sir Elijah was all along intent on deliberate murder? Had not the Committee before them strong proofs of this point; and could they doubt a moment as to the whole having arisen from corrupt intentions?

Mr. Fox contended, that the more power the chief justice was invested with, the greater was the degree of his responsibility. He asked whether, under the same circumstances, an impartial and humane man would not, instead of showing himself the agent of the prosecution, and determined to carry the sentence into effect, have favoured the prisoner, and studiously endeavoured to find a ground for a respite. He said, had such a conduct been ill founded, no man of candour would have blamed it. He asked if they ever heard of ministers being impeached for granting of pardons, and yet they all knew that many pardons had been granted on improper grounds? And would any person say that non-respiting, where mercy ought to have been shown, was not as fair a ground of impeachment as any other abuse of power? He said, he would put sir Elijah in the case of a minister of the crown, revising the sentence of a judge, and when it was recollected that the judge was no other than himself, would it not be agreed that he was bound to exert a double and a treble share of caution and candour? If he revised the opinion of another, Mr. Fox declared, he could freely exercise his judgment, but if he revised his own opinion, he was bound to distrust it, because he was naturally partial to himself.

Mr. Fox next considered the little effect of the execution of Nundcomar, in order to prove the fallacy of the argument that it was necessary, as an example, to deter the natives from forgery. He declared that forgery had since been repeatedly committed by them from that time to this; and that, in all probability, the perpetration of it would so continue. The true effect of Nundcomar's execution was its obvious purpose; it was no less than a plain, unequivocal declaration that Mr. Hastings wished to prevent the natives from making charges against him, and in that respect it had fully succeeded. After putting this very forcibly, and reprobating it as a most diabolical motive for so foul a conduct, Mr. Fox said he recollected one objection which had been urged against the charge; which was, that the whole of the facts alleged had been known for many years, and were not complained of before. If it

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was any argument against a prosecution of a great criminal, that from a variety of obvious causes his crimes had passed long unnoticed, the most atrocious offenders might persevere in guilt with impunity, because such an argument would go not only to clear sir Elijah, but every delinquent under similar circumstances. The hon. and learned gentleman had said, that sir Elijah enjoyed a good character when he went out to India. It was true, he had that sort of fair character, which every other man possessed who had not stood in a situation that would bring his character to be tried; but even had his character been ever so excellent, a good character could not stand in contradiction to facts. He cautioned the Committee as to their vote on the question, and appealed to them, whether they would read this lesson to the people of India, that every accusation urged against the Chief-governor was to be punished with death? Mr. Fox concluded with declaring, that if he was to pronounce upon his honour, he would say, that sir Elijah Impey was guilty of a deliberate murder: and if he was to depose it on his oath as a juryman, he would say the same. He lamented that the powers of the House were so contracted, that the Committee could go no farther than to vote that sir Elijah had been guilty of a high crime and misdemeanor, because imprisonment for life and half his fortune could, in his mind, be no adequate compensation for his guilt. He was not, it was well known, a man of sanguinary feelings; but he should not be sorry if murder, in that case, were to meet with the punishment which murder deserved.

The *Attorney General* particularly animadverted on that part of Mr. Fox's speech in which he had spoken of the 2d. of George 2, extending to perjury as well as forgery, and showed, that the reason why the statute could not in India be enforced respecting perjury, was, because it enacted, that half the penalty should go to the informer, and half to the poor of the parish; and, according to the constitution of that country, that penalty could not be enforced, there not being any poor of the parish. Mr. Attorney contended, that the charters carried out the British laws to India, and spoke in justification of the whole of the conduct of sir Elijah Impey on the trial of Nundcomar. With respect to the charge and the verdict, he thought both the one and the other what they ought to have been; but he owned that had he been the judge, he should have granted the respite. He must, nevertheless, maintain, that the discretion of a judge ought to be exercised without control, and that his being of an opinion that a respite ought to have been granted, was no proof of sir Elijah Impey's having acted criminally, or from a corrupt motive.

Colonel *Fullarton* rose and said:— The unsullied purity which ever ought to be inherent in those entrusted with the exposition of the laws, renders it a solemn, and I am sure, to me, it would be a painful task to offer any observations derogating from the sacred character of a judge. I should, therefore, have been happy, if gentlemen who spoke before me had been able to do away the strong impression of conviction made on my mind by the hon. baronet, who has, with so much ability and information, brought forward charges against sir Elijah Impey, and who has strenuously laboured to bring to the tribunal of English justice, the enormities of Eastern delinquency in the person of one whom that baronet states to have acted the part of an unrighteous judge. Every one who hears me, knows and feels, that the true palladium of English liberty rests on the free spirit of our criminal jurisprudence, and on the incorruptible integrity of our judges. It would be an insult, therefore, on this House to suppose, that you should ever cease to resist any encroachment on judicial purity, and to consider every violation of that purity, as a sacrilege committed against the holy freedom of the state, as the most atrocious of possible crimes; inasmuch as all other delinquencies almost cease to appear enormous in comparison with judicial guilt. On this principle, I confess, it appears to me, that when gentlemen of high character and situation in the law, deliver their opinions on a great judicial question, the public has a right to expect such sound and constitutional doctrines, as may mark, not only an intimate acquaintance with the laws themselves, but a scrupulous attention to preserve an unspotted purity in those who administer the laws. How far those gentlemen who have already spoken, or who may speak on this subject, have, or may prove themselves actuated by such principles, is a point on which the public will pronounce. But, undoubtedly, every man who has a professional character to lose, should consider, that the charges against sir Elijah Impey are of too grave a nature to admit of any flimsy and unsound

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defence. The liberal spirit which united both sides of this House, on a late occasion, in the cause of justice and humanity, will rise in judgment against any lawyer who shall endeavour to envelope in the cobwebs of technical sophistry, those arts of illegality and violence stated in the charges. Before I endeavour to apply these observations to the case before you, I beg leave to remark, that many gentlemen, and those of great respectability, are extremely apt to consider every species of accusation, as bordering too nearly on severity. Let those gentlemen, however, recollect, that in the present instance, it is not so much an accusation as a defence; it is the accusation of one, for the defence of many. The hon. baronet, therefore, should be considered as pleading the cause of humanity against injustice, as labouring to relieve our Indian subjects from the iron rod of legal bondage, to retrieve the national character from imputations of general depravity, and to restore to its wonted purity, the judicial ermine stated to have been scandalously prophaned.

For my part, Sir, I am happy that it does not fall to my lot at present to enter into any general investigation of the multiplied enormities imputed to sir Elijah Impey. They fill whole volumes of reports from your Committees, and it would be tedious at present even to enumerate them. I shall now confine myself to the question immediately before the House, to the conduct of sir Elijah Impey in the trial, condemnation, and execution of Nundcomar. It is already completely before the House, that by the judicial part of the Regulating Act of 1773, a court of judicature was established in Calcutta, independent of the East India Company, with a jurisdiction strictly limited to the Europeans in the settlement, to such natives as were in the service of the Company or Europeans, and to such other natives only, as should, by written contract or agreement, submit to the decision of that court. The object of that institution was, to restrain the Europeans from abuse of power, and to afford to the oppressed natives the means of redress against their European rulers. One of the first acts of this court was, to try the Maha Rajah Nundcomar, a bramin of the highest rank, a subject of the nabob of Bengal, having no connexion with the service of the Company, or of any European; being an inhabitant of Calcutta only, in so far as he had been brought there by force to answer to a charge, and had been detained there by a civil suit still depending.—To try this man by an English court of judicature, to whose jurisdiction he owed no obedience, in a language which he did not understand; by a code of laws of which he never heard; upon a statute of forgery which did not extend to India; for a crime which was not capital by the laws of the country where it was said to have been committed; and before a court which did not exist for years after the transaction for which he was accused; and all this, while a civil suit was carrying on against Nundcomar for the same act, and while he was exhibiting charges of gross and specific peculation against Mr. Hastings and another member of the Supreme Board. One would think this statement hardly capable of aggravation, especially as the second Judge, sir R. Chambers, declared from the bench, that Nundcomar was not indictable on the statute 2d Geo. 2, that the offence alleged against him was not capital. Yet the fact is, that he was tried, that he was condemned, and that he was executed! Without offering any opinion of my own on this extraordinary transaction; without endeavouring to dive into the secret recesses of the judge's heart, and there to discover the lurking motive that gave rise to such an act, I may venture to assert, that it struck the natives of Hindostan with consternation and dismay: that all classes of men in that country did, and do believe, that Nundcomar was sacrificed to save Mr. Hastings from charges which he could not answer; and that in the execution of Nundcomar, sir Elijah Impey and his court committed an act of such illegality and violence, as ought to draw down the avenging arms of public justice on his head!

In answer to accusations of so deep a dye, sir Elijah Impey has pronounced a defence at your bar, of which various parts convey to my mind so complete a confirmation of his guilt, that I give credit to his sense and judgment in refusing to allow it to remain upon record. Here, Sir, I beg leave to observe, that in alluding to sir Elijah's defence, I shall speak from notes taken at the time; and in quoting any documents necessary to the question, I shall read from accurate extracts, in order to avoid any imputation of mistatement. Sir Elijah has told you, "that he came to England unprepared for his defence on this charge; that he knew of no

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charge against him, but for having accepted the office in the court of Suddar Dewannee Adaulet: that the voice of the people, no doubt, is the voice of God, but that he has been vilified, not by the voice of the people or of God, but by false representations and libels in pamphlets and in newspapers. He confesses, however, that a few months after his arrival at Calcutta, that is, immediately after the execution of Nundcomar, he was reckoned, not a man, but a monster." Let me ask that judge, by what means was so monstrous a character affixed upon him? Does he mean to tell the House it was by pamphlets and by newspapers? Was there ever any other judge on whom pamphlets and newspapers affixed a character so monstrous? Or, has he forgotten that there were whole folio volumes, filled with nothing but documents to prove his injustice and corruption? Can he assert that he came unprepared for his defence on this charge, when he confesses that he instructed Mr. Elliot to defend him from the attacks that were made upon him for the execution of Nundcomar? Or can he tell us that he was ignorant of accusation, when he knew that whole volumes of accusations were on record against him? Sir, I blush for the judicial character, when I see a chief justice reduced to the humble character of commencing his defence with assertions originating in a total deviation from truth, and uttered for the sole purposes of deception!

In answer to the objections which were offered on the part of Nundcomar, to the jurisdiction of the Supreme Court, sir Elijah told you, "that the merits of the question turn on the point of native inhabitancy: that he was fully justified by the Regulating Act and by the charter of 1774, to try Nundcomar by the English laws, and that the charter in question gave the same criminal powers to the Supreme Court, as had before been granted to the presidency and council, by the charter of George 2 in 1753." I have read those charters with all possible attention, and, I venture to say, that the spirit and letter of them both contradict the assertion of sir Elijah Impey. This is a matter not of argument, but of fact. Let the charters answer for themselves. The charter of 1753 recites, "that the Company, by an equal distribution of justice in their settlements, had much encouraged, not only his Majesty's subjects, but those of other princes, and the inhabitants of the adjacent districts to settle in those forts and towns." The charter then proceeds to state, "that the mayor's court shall be competent to try all civil suits within the limits of Calcutta, excepting such as shall arise between the Indian natives, in which case we will, that the same be determined among themselves; and that the President and Council shall form a court of Oyer and Terminer, and that they shall proceed in the same manner as commissioners of Oyer and Terminer in England." But with this remarkable proviso: "As nearly as the circumstances and condition of the place and inhabitants will allow." Now, Sir, what does the Regulating Act of 1773 say? It expressly limits the extent of the jurisdiction of the Supreme Court "to British subjects resident in India, to such natives as are in the service of the Company, or of Europeans, and to such other natives only, as shall, in writing, have agreed to submit to the decision of the Supreme Court." The equal distribution of justice alluded to with regard to the natives, is no other than a marked respect for the native institutions, and trial by their own laws.

It is in evidence before the House, "that the Company exercised jurisdiction within the district of Calcutta, in consequence of their being Zemindars of the district." It is farther in evidence before you, "that all causes of a civil nature among the natives, were tried before the Adaulet; that those of a criminal description came under the cognizance of the Phowzdarry; and that causes affecting religion, or persons whose casts might be lost by the sentence, were not trusted to the ordinary course of judgment, but that among the Mahomedans, the Cauzees, and among the Gentoos, the Bramins, ought to be consulted on the subject." In support of this manner of proceeding, the Governor and Council in their letter to the Directors in the year 1772 say, "We have endeavoured to adapt our regulations to the manners and understandings of the people, adhering as closely as we can to their ancient usages and institutions." "But," says sir Elijah, "all this is nothing to the point; Calcutta is not an Indian town; it is an English town as much as Calais or Port Mahon were, or as Gibraltar is at this day." This assertion he supports by the arguments of the judges in the Court of King's-bench, in the West India cause of Campbell against Hall, quoted in Cooper's Reports,

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and very fully answered by baron Maseres, and very ably and elaborately alluded to by the hon. baronet. Into that argument I shall not enter, because it does not apply. The tenure of Calcutta has no resemblance to the tenure of those places. Sir Elijah should rather have quoted the case of Guernsey and Jersey, where the natives continue to be tried by their own laws, a part of the old code of Normandy. He knows well, that Calcutta is neither held by cession nor by conquest, but by a particular tenure from the Nabob of Bengal, and under the paramount authority of the Great Mogul. In proof of this, let any person read the various treaties and grants from the country powers to the East India Company, respecting the presidency of Fort William. First, Serajah Dowlah, who had taken Calcutta, restores it to the Company, with leave to fortify the same. Meer Jaffier grants a tenure of Calcutta to the Company, and remits to them the rents of the districts, to the end that they may provide for the defence of the factory, and of the seaports therewith. In 1765, the Great Mogul, Shaw Allum, confirms to the Company the twenty-four purgunnahs of Calcutta, which they before held by grants from the Nabobs Meer Jaffier, and Cossim Ally Cawn. And in the preceding year, the Great Mogul had granted to the Company a firman, or charter, in which are these words: "The Company must endeavour to drive out our enemies, and decide causes, agreeably to the rules of Mahomet, and the laws of our empire; and these are our strict injunctions." "But," says sir Elijah, "what is Mubaric ul Dowla, the Nabob of Bengal? He is a man of straw." He said so from the bench. "What is the Great Mogul? He is a mere phantom of authority." If we are only contending for the right of the strongest, all argument but that of force is vain. If that judge, throwing aside the balance and the sword of justice, delivers on the bench, and at your bar, doctrines which seem fitted for the camp of Cortez or Pizarro, of Alaric or of Atilla, of Tamerlane or Zingis Cawn, rather than for an English tribunal; I do not conceive what limits can be put to the violation and encroachments of the court of judicature. If these doctrines are once admitted, I see nothing wanting but mere force to justify sir Elijah in sending a sheriff's officer to commit for a contempt, the prime minister of any prince in India, or to issue a warrant of attachment against the Great Mogul himself in his capital at Delhi.

"But," says sir Elijah, "I had a precedent before me in the case of Radachund Metre, who was condemned for forgery in 1765, respited on a petition from the native inhabitants, and pardoned by the King." But he adds, "As no prohibition was sent out with the pardon, I conceived that the proceedings on that trial became a rule and precedent for me to follow." He says nothing, Sir, of the recorded apprehensions with which the natives of Calcutta were struck on the condemnation of Radachund Metre. He says nothing of the general sense which they expressed of the illegality and cruelty of that condemnation. And he has had the confidence to call that trial a promulgation of the statute Geo. 2 against forgery, although he knows that the natives of Calcutta considered the respite and pardon of Radachund Metre as a complete rejection of the statute Geo. 2 against forgery, as far as concerned the natives of India; and although he knows that they demanded, that if they were to be subjected to such cruel, exotic, and unknown laws, at least that those laws should be translated into the Hindoo languages, before they should be allowed to have any operation against any native whatever. If that judge was really weak enough, I should say wicked enough, to wish to subject the natives to all the penal laws of England, it was his duty, first to have had the English statute books, and all our law authorities translated into the various languages of Hindostan, to have had them proclaimed to the people, or hung up as the laws of the twelve tables were at Rome; for till such a promulgation takes place, the laws of England, excepting over British subjects and their dependants, can have no more legal operation in India, than they have in Tartary. I confess, sir, I cannot but admire the front of that chief justice, when he quotes as a precedent and rule of his conduct the proceedings of the mayor's court, and of the criminal court, which was superseded by the Supreme Court of Judicature. Why, Sir, it was the business of his life in India to overturn every act of those courts, He was hardly seated on the bench, when he resolved to invalidate all grants, charters, tenures, and other territorial or possessional rights, deeds or claims, which had been confirmed by the former courts, unless they came under the revision of the

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Supreme Court; when he resolved, that all acts or operations of law, justice, right, and legal obligation, should be new modelled by his court. By one act, in a cause of respondentia, he overturned the whole established mercantile law of the settlement. By another, all the tenures of cottages, or tenants at will, were completely changed. He turned loose all the felons who had been employed upon the works, because they had been confined by the former court; and thus, while he had rendered it impossible for any man in Calcutta to be safe in his own house, without a guard against those banditti, he rendered it still more unsafe for any man to live under his jurisdiction, without a guard of lawyers and attornies; while in some instances he increased the fees of office 2,800 per cent. above what they are in England. Sir, in every instance he laboured to establish the Court of Judicature on the ruins of the former courts, and announced himself as a paramount authority superior to the supreme governors, whom he called mere agents of the Company, and superior to every prior institution in that country. With what face, then, does he quote, in support of his misconduct, the proceedings of a court, whose abuses he was sent to correct, and whose best decisions he laboured to destroy?

If the defence of sir Elijah Impey has hitherto appeared unworthy of the situation he has filled, what shall we say when we find him condemning and executing Nundcomar on the statute 2 Geo. 2, rendering forgery capital in England; although "that statute is so strictly limited, that it does not even extend to Scotland? Therefore," says sir Elijah Impey, "it extends to Calcutta, because *exceptio probat regulam*—and Calcutta is not excepted." But as the Court of Directors very justly stated in their remonstrance on this subject, the statute in question cannot be extended to India without the monstrous and horrible absurdity of subjecting the natives of that country to all the sanguinary and perplexing enactments which fill our English code. So that if it were legal to hang Nundcomar on the statute Geo. 2, against forgery, it would be equally just and proper to hang the nabob of Bengal, or the great mogul and all his court, on the statute of James 1, against bigamy. But I will meet sir Elijah Impey on his own ground—the statute of Geo. 2, shall for a moment be allowed to apply to India; and yet on that supposition, I will engage to convict him of an act so illegal, that he ought to be impeached for having committed, not a legal, but a political murder. In the whole transaction for which Nundcomar was executed, there is no mention of a sign manual, or the signing of a name having been forged, for there was no sign manual to the deeds. Here, Sir, I must inform the House of what sir Elijah has carefully concealed, the very different manner in which deeds are authenticated in England and in India. In the early part of the English history, while few people could sign their names, the strict letter of the law required nothing more than affixing a seal, in order to authenticate any bond or writing obligatory; afterwards, when the art of writing became general, it was the practice for every man to sign his name to deeds or papers, which he wished to authenticate. In the former period, the statutes against forgery were extremely mild. About the time of Elizabeth they began to be more severe; but it was not till the reign of Geo. 2, when the art of writing had become almost universal, that forgery was punished with death. Now, Sir, the practice in India remains at this day, as it was in England five centuries ago; no man in India puts his name to a bond, or writing obligatory, nor to a common letter, but affixes his seal or chop on which his name is engraved. So completely different is the operation of forgery in England and in India, that in England the person who gives credit to the forged deed is injured; but in India the loss falls on him, whose seal is affixed to the deed. Sir, it is no unfrequent practice for a person in India to send his seal to a confidential friend, to be affixed to a deed, which could not be valid without that form; and I myself have known a person whose seal being stolen and money raised upon the faith of it, found himself obliged to pay the amount. Under such circumstances, what judge that ever lived, except sir Elijah Impey and his associates, would have condemned Nundcomar to death on the statute Geo. 2, rendering forgery capital in England? Judge Jeffries, or chief justice Thorpe, or any other evil-minded judge who ever suffered in the estimation of his country, would have blushed at such an imputation. From these facts, the House will judge how cruel and unjust it was to consider forgery as a capital crime in India, because it puts it in the power of any one who can lay hold of the seal of another, to expose

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him to the loss of life. If it was the determination of sir Elijah to try the natives of India on the statute Geo. 2 against forgery, it became of necessity his duty, in the first place, to procure a complete revisal of the manner of authenticating deeds in India, and instead of seals or chops affixed, to oblige the natives to sign, seal, and deliver all deeds and writings obligatory, in the manner practised in England.

With regard to the conduct of sir Elijah Impey, during the trial of Nundcomar, and his subsequent proceedings, they have already been so fully explained to the House, that I shall offer very few remarks on that part of the subject. In his charge to the jury on the evidence of Kissen Juan Doss, you find him labouring to defeat the testimony of a witness, whose depositions, if believed, must have acquitted the prisoner. You find him refusing every plea or petition that was preferred in behalf of the prisoner, refusing to allow his advocate to make his defence, and obliging the unhappy old man to make it himself, in a language unknown to the jury; although even sir Elijah has confessed that doubts and mistakes had happened in the course of interpretation. You find him uniformly mistating the fact in the most material point of all; and in his address to the jury, substituting the word "signature" in the place of "seal;" thus endeavouring to make the jury consider those terms as of equal import; although I have explained how very different they are in their operations and effects. But, sir, to complete the climax of injustice, you find it in evidence, that the conduct of sir Elijah, and the majority of the judges, marked so positive a determination to convict Nundcomar, that the old man took Mr. Farrer aside, and declared to him, "that finding the judges to be his enemies, and his death resolved on, he meant to return into court, and to declare, he would give the judges no farther trouble, but submit to his hard fate. You find that this was not the opinion of Nundcomar alone, but when communicated by Mr. Farrer to sir R. Chambers, he said 'that the communication had given him great uneasiness; that he was apprehensive such an idea did prevail, and for his part, desired Mr. Farrer to tell Nundcomar, that every question he had put, or should put, was and should continue to be as much in favour of his witnesses as against them.'" Such, Sir, was his opinion of the proceedings during the trial. At the commencement of the business, he had declared from the bench, "that it was illegal to try Nundcomar capitally on the statute Geo. 2, and at the conclusion of the trial he declared, that if he were alone to pass sentence, doubts would still remain in his mind, that the indictment was not capital." The answer of the chief justice was a definitive sentence: — he must not expect mercy — Death.

But, Sir, what conclusion shall we form, when we find these material facts entirely omitted in the trial printed under the authority of sir Elijah Impey, and which, mutilated as it is, he has solemnly declared at your bar to be a true and faithful narrative of the proceedings against Nundcomar? You not only find the opinion of judge Chambers omitted, but all the evidence concerning the commercial state of Calcutta, which referred to that opinion. The substance of the plea to the jurisdiction is also completely expunged, as well as the protest of Nundcomar, when he pleaded not guilty. Leaving it to that judge to reconcile this contradiction between his declaration and the fact, I shall only observe, that these omissions and falsifications will hardly surprise those who know, that it was the practice of sir Elijah in this, and various other trials, by controlling the council—by intimidating the witnesses—by manœuvres of interpretation, and other means, to make them answer very much according to his wishes—to allow no question to be put, but as he pleased—and to allow no more of the answer to be recorded, than suited the side he favoured. At the same time by frequently suppressing the question and the answer, taking care that it should not appear that any evidence had been withheld.

We come now to the severest point of all; a point on which I fear, it is beyond the reach of human ingenuity to palliate the conduct of sir Elijah Impey. After all the doubts that had occurred, and the difficulties that had arisen, in the arrangement, trial, and condemnation of Nundcomar, no sooner was sentence passed, than every effort was made to procure his respite, and to prevail on sir Elijah to act according to the instructions of the charter, which says, "That when doubts or difficulties arise, or when there shall be other grounds for staying the execution of a sentence, it shall be lawful for the judges to refer the cause to the king in council." All petitions on that subject were rejected, and the advocate who brought them forward was se-

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verely, harshly, and unjustly reprimanded. Sir Elijah tells you at the bar, "That there were no doubts in the minds of the judges, that the judges were unanimous, that no difficulties had occurred, and that there was no circumstance whatever sufficient to induce him to recommend Nundcomar to mercy. That Nundcomar being an inhabitant of the provinces, and the law "ex post facto," and retrospective with regard to him, was no sufficient reason; for neither Nundcomar nor his counsel had urged it in his defence." It was the duty of sir Elijah not to have suffered Nundcomar to be injured by his ignorance or omissions, but to have urged those points in his behalf. It was the duty of sir Elijah to have stated the extreme intricacy of the cause, and the doubts which had arisen in the previous trial, before the court of Dewannee Adaulet, in which a member of this House, Mr. B. Rous, presided. That gentleman has informed you, "That the suit on the part of Mohun Pershaud against Nundcomar, and the transaction itself seemed, in the judgment of the court, defective in point of regularity, and the evidence in support of it inconclusive, that the cause was of an intricate nature, and depended materially on accounts and transactions carried on in neither of the three languages understood more or less by the board; but, in the Nagree language, in which no member of the court was a competent judge; and that there was a darkness in the whole transaction, which, after much careful inquiry, prevented him (Mr. Rous) from forming any decision satisfactory to his own mind; and, therefore, he recommended, that the cause should be left to arbitration." These circumstances, however, formed no subject of doubt or hesitation in the mind of sir Elijah. He declares, that no doubts upon the question did exist.

After all this, that judge asks at your bar, "On what pretence could Nundcomar have been respited and recommended to the king for mercy? Could the judges have said Nundcomar was ignorant of the law?" I answer, they ought to have said so, for he was ignorant both of the law and the language. "Should he have been respited, on the remonstrance of the nabob of Bengal?" I answer, undoubtedly he ought, for the nabob of Bengal was his rightful sovereign. "Should justice have been staid because Nundcomar was prosecuting Mr. Hastings and Mr. Barwell for peculation?" Good God! Sir, what judge on earth, excepting sir Elijah, would have ventured to pronounce that question in this House? What judge that ever lived, excepting sir Elijah, would have dared, in his situation, to have told you, that he was ignorant of those charges? Had they not been the subject of a prosecution before sir Elijah Impey? Were they not a matter of public notoriety to every individual in Calcutta? Did not sir Elijah himself confess, that Mr. Hastings, contrary to his oath, communicated to him the most secret consultations of the Council? Is it not upon record that Mr. Hastings and Mr. Barwell having been accused of specific acts of peculation, a prosecution by order of the Company was instituted against Mr. Barwell, and that the chief justice declared from the bench, *pendente lite*, that he had accepted the office of attorney or trustee for Mr. Barwell, and of guardian to his children? Was he not disqualified from judging in the cause by these means, and was not Mr. Barwell cast in the action? Surely, Sir, there must be something in the nature of atrocious guilt which operates upon the head as well as the heart, and deprives the guilty person of all rational use of the faculties and intellects which God has given him! Otherwise, how is it possible to conceive, that a man so gifted as sir Elijah undoubtedly is, in point of understanding, should have stood forth in confirmation of his own guilt, by such unfounded declarations?

With regard to the fact on which sir Elijah laid so much stress, the order for burning a libel laid before the court by general Clavering after the execution of Nundcomar, that too was stated to the House with the most fallacious colouring. Sir Elijah endeavoured to convey an idea, "That the majority of the council had disapproved of the imputations thrown upon him, and that by ordering a libel upon all the judges indiscriminately to be burnt, they did, in a manner, acquiesce in the proceedings against Nundcomar." Fortunately, however, for the cause of truth and justice, the examination which has taken place on that subject, and the documents which have been produced, prove, that the libel in question was burnt not because the facts stated were untrue, but because it libelled indiscriminately and unjustly all the judges; and more especially, because the imprudence of sir John Clavering, in presenting it, had exposed him to the vengeance of a judge

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whose violence and judicial intrepidity knew no bounds, and of whose resentments sir John was the immediate object. [Here colonel Fullarton read extracts from the minutes of Mr. Francis, general Clavering, and colonel Monson; and also sir Elijah Impey's letter to the Secretary of State, dated January 20, 1776.] These, Sir, I think, are sufficient to prove that sir Elijah Impey knew and felt the strong disapprobation of the Council, which marked every part of his conduct in those proceedings, and that his own hand contradicted his tongue; when he endeavoured to convince you at your bar, that sir John Clavering, col. Monson, and Mr. Francis, felt or expressed less horror and detestation than the rest of mankind, at the execution of the Rajah, who suffered not for any evil which he had done, but for his boldness in accusing the Governor, as an example to deter others from similar accusations.

So much, Sir, on the subject of sir Elijah Impey's proceedings against Nundcomar. Until it be proved that this statement of the case is false; until it be proved that Nundcomar was an English subject; that he was directly or indirectly in the service of the East India Company, or of any European; or that he was an inhabitant of Calcutta, farther than as having been brought there by force; until it be proved, that the natives of Bengal ought to be governed by the English statute book, and be condemned by "ex post facto" regulations, I shall not be very solicitous of entering any farther into legal arguments on the subject. Because the very statement itself, if true, proves, that in the trial, condemnation, and execution of Nundcomar, sir Elijah Impey committed an act so singularly cruel and unjust, that I hope in God, for the honour of the English name and character, it will for ever stand alone in the judicial annals of this country!

I have now endeavoured to detect the false colourings and fallacious arts by which sir Elijah has attempted to impose on this House; but, doubting that these wretched means will prove of no avail, he has told you, that, after all, "his chief reliance is on the gentlemen of the law." Here, too, he will find himself without a refuge, and, like a drowning man, he catches at a broken reed. The gentlemen of that respectable fraternity, no doubt, lament that ever there should have been grounds for staining our records with such imputations as have been brought against sir Elijah: but they likewise know, that the respectability of our own characters and professions will be materially affected by their conduct on this occasion, and they will say to all such, "procul abeste profani." They know that this House and the public at large will be extremely apt to consider an intemperate defence of sir Elijah, by his brethern of the bar, as a testimony, by no means of his innocence, but of their being less alive to the sentiments of humanity, than to the screening and protecting a member of their own order, however culpable and unworthy. There is one argument, however, which on the ground of expedience deserves consideration. It has been stated, that if a judge is to be held responsible for every act performed in his judicial capacity, he will feel himself so much exposed to cruel and perplexing circumstances, that it will be impossible for any judge, without great hazard, to pronounce sentence either with vigour or determination. There is no person living who could be more averse than I should be from wishing to diminish the security, or to restrain the authority of judges. But, as it is the duty of every well regulated state to distinguish, by extreme veneration, the character of a judge; so, on the other hand, the sacred character of justice, and the welfare of society requires, that every judge should act with a peculiar delicacy; that no unworthy sentiment, no impulse of hope or fear, no desire of power or gold, no motive of personal resentment, prejudice, or partiality should find a harbour in his breast; but that his conduct, on which depend the lives and properties of men, should invariably be directed by the impulse of an enlightened understanding, deriving life and energy from an uncorrupted heart. Will sir Elijah Impey venture to lay his hand upon his heart, and say, "such has been my conduct?" Had a judge, such as I have endeavoured to describe, been placed in the situation of sir Elijah, he would have been impressed with the most exalted emotions. He would have felt, with exultation, that he and the Court of Judicature were sent to India, in order to communicate to the natives of that country the blessings of English freedom and security, to exhibit a pure and spotless model to the country courts of justice; to protect the weak from the oppression of the strong, and above all, to restrain Europeans and their dependants from the abuse of power. Surely, Sir, a more ex-

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tensive, a more animating, a more exalted employment never fell to the lot of man! A conduct at all congenial with such a purpose would have raised sir Elijah to a level with the law-givers of Greece and Rome—would have come home to the heart of every Indian—would have rendered him an object of universal veneration.

I feel for human nature; I feel for the name and character of Englishmen, when I consider the humiliating contrast exhibited in the conduct of sir Elijah Impey. That judge has told you at your bar, "he cannot bear to live under the imputation of murder; that if he were acquitted of the murder of Nundcomar, he should consider all the other charges as frivolous and unimportant." I must beg leave to say a few words on this part of the defence, which is material to the question. If there be any truth in man, or any reliance to be placed in human evidence, the volumes of reports from your Committee, and various other documents already in possession of this House, will prove, that it is impossible for any one, without an egregious trespass upon brevity, even to enumerate the multitude of judicial violations committed by sir Elijah Impey. If there be any credit due to the minutes and proceedings of the Supreme Government of India, vouched by regular documents, and supported by the great voice of that country, it cannot be denied that the decision of sir Elijah Impey alienated the minds of Europeans, Musselmen, and Gentoos, almost beyond the power of reconciliation; excited the execrations of twelve millions of native subjects; spread general terror and dismay, by means of those harbingers of the court of judicature, whom he scattered over the provinces of Bengal, far beyond the limits of jurisdiction; engaged the civil and judicial power in actual hostility, by force of arms; exposed the national character to detestation, and involved the whole settlement in such anarchy and consternation, "as appeared more dreadful"—(I use the words of the natives themselves)—"than war, pestilence, and famine."

These, Sir, are not idle declamations; they stand recorded on your Journals, and with regard to their effects and operation, they are vouched in a manner that cannot be disproved. Although it is absolutely necessary not to let this part of sir Elijah Impey's defence pass unnoticed, yet I acknowledge that it is not now my business to intrude upon the House, with any specification of those transactions. I am not now to state the bribes that were received — the various contracts and contingencies, the items and the extras by which that judge was enabled to amass an immense fortune, while, at the same time, he lived with the splendour of an Asiatic prince. I am not now to state the robberies, rapes, tumults, homicides, sacrilege, and murders that were committed under the express sanction of the Court of Judicature. I shall defer till another opportunity any explanation of that sinister talent, I should rather say of that ambidexter ability, by which the great mischiefs of the Court of Judicature were achieved. I shall, perhaps, on some other day, have occasion to enlarge on that unrivalled ingenuity by which sir Elijah Impey contrived to subdue the unwilling minds of men in India; by which he reduced every judge, barrister, and attorney or other person connected with the Court of Judicature, to an absolute dependence on his will and pleasure. I shall then state by what superior machinations he extended the judicial influence to the farthest corners of Hindostan. How he made every class and colour, native or exotic, subject or superior, bend beneath his undefined authority. How he made rajahs, princes, sovereigns, the supreme board of India, tremble on the seat of government, made the boldest counsellor among them crouch and shrink from his displeasure, disavow their own confirmed opinion, and confess by deeds as well as words, how much they stood in awe of sir Elijah Impey, whose subtle legal inquiry they found more mischievous "than fleets and armies, and the cannon's murder!" I shall perhaps take the liberty on some other of the charges, to state those things, and the means by which chief justice Impey erected the court of judicature into an "officina scelerum et malorum," into the most formidable state machinery that ever was levelled against any government, till at length exulting in his powers, and surpassing the inventive faculties of Archimedes himself, he discovered a position on which to rest the machinery with which he was to shake, if not the globe, at least our Indian empire!

Fortunately, however, after he had literally shaken our Indian empire to the foundation, and involved it in actual war between the Government and the Court of Judicature; after he had wielded with the most dextrous industry the two great arbi-

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ters of human actions, hope and fear; he bartered, like a huckster, rather than a judge, all his ill-gotten power, bartered it for contracts which he held in other names and for an office with a salary of 8000*l.* per annum, which he held in his own name, contrary to the nature of his office, contrary to his oath! From that moment the governor to whom he had sometimes yielded with abject acquiescence, and at other times treated with unbounded insolence, from that moment the governor, on whom he had sometimes levied war, but with whom he was always in a collusive communication, became invariably the best of men, and sir Elijah the most inoffensive of judges. I allude to those transactions at present, because they have an immediate and material reference to the defence of sir Elijah Impey.

How then, in the name of God, Sir, could that judge dare to tell you, that if he was acquitted of the murder of Nundcomar, he should consider all the other charges as frivolous and unimportant? For my part, I wish most sincerely, for the honour of human nature, that it were possible for him to disprove the multiplied accusations which appear upon record against him. But, Sir, waving all consideration of contracts, peculations, illegal salaries, political and extrajudicial aggressions, let me ask, how will he answer to the host of unfortunate victims that rise up in judgment against him?—Victims dragged hundreds of miles from their own families, to pine in dungeons and to be condemned by laws they knew not; in a language which they never heard; before a judge to whose jurisdiction they owed no obedience? Waving the fate of the unfortunate Mr. North Naylor, the brother of the Phowzdar, or chief criminal judge of Dacca, was shot by his authority, and calls for vengeance: the wives of that Phowzdar, the princess of Raje Shahy, and other women of superior rank, were violated in the recesses of the Zenana, by those legal ruffians whom he sent beyond the limits of his jurisdiction to execute the process of the Court: the death of Cazee Zadee, the judge, is on his head. These are stains hardly less indelible than the blood of Nundcomar! What atonement shall he make to those unfortunate victims? to their wretched families and weeping friends?—What expiation shall he make to this country, for so sanguinary an exposition of the mild and just laws of England; The laws of Draco, we are told were written in blood; but they were written in the blood of men acquainted with those laws, and with the language in which they were written. The laws of England, mild and liberal as they have ever been esteemed; yet when applied to India and expounded by sir Elijah Impey, have not only proved sanguinary, like those of Draco, but they have been written in the blood of men equally ignorant of those laws, and of the language in which they were expressed. Insomuch that the first words of the English language which those unfortunate natives were obliged to learn, were the barbarous Anglico-Latino terms — capias — bail, mulct — incarceration!

Knowing as I do, the history of those multiplied enormities, the motives in which they originated, and the horrid consequences with which they were attended, light as sir Elijah Impey may consider them, I cannot doubt but they will make his name be remembered as long as the judicial records of India shall endure. Let him, however, this day stand or fall by the merits of his conduct in the case of Nundcomar. On this charge, I cannot for a moment doubt, but you will find it necessary for the honour of this House, to impeach sir Elijah Impey; in order, if the guilt alleged against him be unfounded, that he may be relieved from that load of horrid imputation with which at present he is overwhelmed; and on the other hand, that if he be really guilty, the memory of sir Elijah Impey may be branded to succeeding generations, as a monitory example to all future judges. The House of Lords will judge of these things; they will pronounce according to the weight of evidence that shall be laid before them. In voting the impeachment and preparing the accusation, this House will have fulfilled its duty; and I trust the Lords will imitate that liberal and exalted spirit lately displayed in this assembly; that spirit which united men opposite in principles, in practice, and in political pursuits; united them in the great cause of humanity against oppression; that spirit which, with a diffusive voice, proclaimed to the farthest corner of India, that notwithstanding the regardless depravity too prevalent among all orders of men in this country, yet that all ranks and orders in the state are capable of rising superior to dissention, and of uniting with one hand and one heart against delinquency, "when great, august and god-like justice calls!"

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Sir *James Johnstone* said, that every argument he had heard confirmed him in the idea that the question ought to be supported. The carrying it, he conceived, would not amount to a trial of sir Elijah Impey, but would be in the nature of a grand jury finding a bill of indictment, that was to put a person on his trial. To this trial sir Elijah, in his mind, ought to be sent. The dignity and independence of our laws respected neither rank nor situation. They had, unfortunately, beheaded a king, they had hanged a lord, they had shot an admiral, they were now trying a governor-general, and he saw no reason why they should not have an effect on the other profession, that of the law, and put a judge and a chief justice on his trial.

Mr. *Pitt* said, he trusted he should not have occasion to take up much of the time of the House, as the question appeared to be at length reduced to a very narrow compass. He would not touch on any matter foreign to the question as the hon. baronet had done, nor would he follow the extraordinary example of the hon. gentleman who had spoken last but one, and who had introduced such a variety of extraneous matter. The hon. gentleman appeared to him to be of opinion that having been in the East Indies, he had a right to say all that he knew, or rather whatever he pleased, respecting the transactions that had taken place in that part of the world. In what other way were two-thirds of his speech to be accounted for? Because sir Elijah Impey had told them at the bar, that if he was cleared from the charge of murder, the other charges would be trifling in his consideration, the hon. gentleman had thought proper to charge sir Elijah with saying, that all the other charges were frivolous. Was that a fair mode of reasoning? Because a judge declared, that he could not bear the imputation of murder, which must naturally be a charge of a heavy and intolerable nature, to any mind possessed of any feeling, and had said, that, compared with such a charge, he should consider any other as light and trivial, was the hon. gentleman warranted in going into such a series of inflammatory invective and violent declamation, as had characterised the last hour of his speech? The hon. gentleman might have abilities, he might have eloquence, but he had not been in the habit of speaking in that House, or he would not have been guilty of so irregular, so disorderly, and so unparliamentary a procedure.—After this exordium, Mr. Pitt proceeded to speak to the several heads of the charge, and to show which of them, in his opinion, had been laid little stress upon, and which abandoned altogether. With regard to the charge of conspiracy between sir Elijah Impey and Mr. Hastings, however at first it had been attempted to be supported, the hon. baronet had ultimately abandoned it. [A cry of No, no!] He maintained, that what he had asserted was the fact, and in illustration of his argument he went into a discussion of the circumstances which sir Gilbert had stated, as proofs of the existence of the supposed confederacy. The first of these was the great friendship said to have existed between sir Elijah and Mr. Hastings; and, in the next place, the declaration, that the intimacy went so far as to induce sir Elijah to join Mr. Hastings in contriving to institute the prosecution of Nundcomar, in order to put a stop to the inquiry then pending into an accusation of Mr. Hastings, urged by Nundcomar, who had charged the Governor-general with various peculations. If gentlemen had at all attended to the evidence before them, they would not find a tittle of proof to support such an allegation, and therefore the hon. baronet had quitted his ground respecting that part of the charge, and had stated that it was proved that Mr. Justice Le Maistre was the person who drew the indictment of Nundcomar. But let the Committee look at Mr. Tolfree's evidence, and they would see that there was no proof of this being the fact. Mr. Tolfree says, he saw what he took to be a copy of the indictment, in Mr. Justice Le Maistre's hand-writing, but that he is not clear, whether it was a rough draft or a copy; and this is the only ground to prove that Mr. Justice Le Maistre drew it, much less to support the insinuation that sir Elijah had a hand in drawing it. But then the hon. baronet, in order to lend some colour of probability to this assertion, takes upon him to declare, that the indictment must have been drawn by a lawyer of great skill, and by a man well versed in drafts of that nature, and says, that as Mr. Farrer certainly did not draw it, and that no common lawyer could, it follows of course, that it must have been drawn by one or more judges, and who among them could those judges be but Mr. Justice Le Maistre and sir Elijah Im-

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pey? By this mode of reasoning the Committee would see, that the hon. bart. had chosen to suppose that there was no other lawyer who practised at the bar of the Supreme Court but Mr. Farrer; but, admitting this strange assertion for a moment, let any man of ordinary knowledge of the nature of such instruments read the indictment, and he would see that not only any common lawyer could have drawn it, but any attorney's clerk who had read a book called, "The Crown Circuit Companion."

The next part of the charge was, that "the said trial, sentence, and execution, were contrary to law." Here, give the hon. baronet the full advantage of the whole extent of his argument, respecting the power of carrying the laws of England over to any British possessions out of the realm, and all he can then prove is, that the charter was insufficient to confer criminal jurisdiction. Would that Committee take upon them to impeach a judge for having believed a charter, which had received the sanction of parliament to convey those powers, without which the constitution of the Supreme Court was a nullity, and the object of his being sent to India totally fruitless? In order to make this part of the charge still stronger, they accuse sir Elijah of having obtained the charter; but had they afforded any thing like proof of the truth of the accusation? He appealed to the reason and good sense of the Committee, whether a judge ought to be impeached upon any such grounds; and, whether, if the charter was as defective in point of law as it had been asserted to be, those who drew it and granted it, were not more proper objects of impeachment? The next part of the charge was, "that the said proceedings were illegal," and to make out this, the charge stated, that Nundcomar was considered as subject to the jurisdiction of the Supreme Court, as having been an inhabitant of the town of Calcutta, whereas he was brought by force to Calcutta. Had that fact been proved? On the contrary, had it not appeared that Nundcomar was an inhabitant of Calcutta, and that he had long been an inhabitant of that town. Mr. Pitt reasoned upon these several parts of the charge that he had taken notice of, and contended, that they had either been abandoned by the hon. bart. and those who supported him, or laid so little stress upon them, that they could not be regarded as sufficient grounds to induce the Committee to vote the impeachment. With regard to the charge, "that the proceedings were illegal," the reason assigned was, because the act of the 2nd of Geo. 2, cap. 25, which rendered forgery a capital felony in England, did not extend to India. The sole question that arose upon this, was on the policy of applying that statute to Bengal, and here much must depend on the consideration, whether the country was a commercial country, whether paper credit was a matter of importance, and whether the application of such an act of parliament was expedient or necessary. How did the matter stand in these respects? Every man who knew any thing of India, was fully sensible that it was a commercial country, and that much depended on supporting a paper credit there. Nay, the expression of an hon. baronet (sir R. Sutton) upon this point, "that Bengal had gone on for fifty or a hundred years before, transacting almost the whole of its commercial concerns, in bonds, notes, and bills," had been made a subject of ridicule by a right hon. gentleman, who, however, had not attempted to controvert the fact. It was evident, therefore, that the act of 2nd Geo. 2 was as applicable to India as to England. With regard to the objection stated from the bench, as to the validity of the indictment, by sir Robert Chambers, the Committee had heard the answer of the Court to that objection, and they had seen the acquiescence of sir Robert, during the whole of the trial, in signing the calendar, and in agreeing to the sentence.

The next head of the charge was, "that the said trial, sentence, and execution were contrary to natural justice." Mr. Pitt here adverted to what had been said both by sir Gilbert Elliot and Mr. Fox, as to the whole of the charge turning on the corrupt motive of sir Elijah Impey; each of those gentlemen having severally declared, that unless a corrupt motive was proved, the Committee ought not to vote for the question. He desired to know where there was a ground to be met with, that would bear out the suspicion, that sir Elijah had been actuated by a corrupt motive? As to the suggestion that sir Elijah had conspired with Mr. Hastings to take off Nundcomar, that point he had already examined, and showed that so little likely had the hon. baronet found himself to be able to establish this by proof, that he had abandoned it. Where

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next were they to look, then, for the sort of proof necessary to support the charge? Undoubtedly, to the conduct of sir Elijah during the trial. In respect to that, great stress had been laid by the right hon. gentleman (Mr. Fox) on the character of Caumel Odein, as if the criminality had rested solely on the testimony of that witness, who had been represented to be a man of an infamous character. But was that the fact? Let any man read the trial, and they would see that the conviction of Nundcomar followed not more from the unanswered and clear proof of his guilt, as established by the evidence in support of the charge, than from the gross prevarication, infinite contradiction, and manifest perjury of his own associates, whom he had called as witnesses in support of his defence. To prove that the fact was so, he animadverted on the testimony of Mohun Pershaud, Kissen Juan Doss, and other witnesses, and read several extracts from the trial, to show that sir Elijah had, in various instances, delivered himself from the bench, during the trial, as the friend of Nundcomar, rather than as the agent for the prosecution.

After a variety of remarks in illustration of his assertion, that the conduct of sir Elijah, during the trial, did not afford proof of his having been actuated by any corrupt motive, Mr. Pitt spoke of his refusal to grant the appeal that had been moved, and showed, that according to Mr. Farrer's evidence, who had confessed he felt himself "beaten upon that ground," there was no proof, that, in point of law, the granting of an appeal was warrantable. The last matter, therefore, to be considered was, that sir Elijah had refused to grant a respite to Nundcomar, and that, he observed, was the only part of the charge upon which the hon. baronet had grounded much argument. In order to judge how far sir Elijah was blameable in this respect, the Committee ought to refer to the charter, and see in what manner the authority to reprieve was vested in the chief justice. Mr. Pitt here read the words of the charter that referred to this point, whence it appeared, that where the chief justice reprieved and suspended the execution of a capital sentence, he was to transmit to his Majesty his reasons for granting such respite, and that those reasons were to be stated at length in writing. He asked what reasons sir Elijah could have stated, since the prisoner had been convicted after a long and impartial trial, and there had resulted no fact or circumstance to warrant such a proceeding? He reasoned on the discretion that the charter gave the judges of the Supreme Court, and contended, that it was idle to argue that a discretion existed, and that, nevertheless, it was criminal in a judge to exercise the very discretion, which it was admitted on all hands, that he legally possessed. Mr. Pitt concluded with declaring, that, in no view could any corrupt motive be brought home to sir Elijah Impey; and that, therefore, he never voted from a more decided conviction of mind, that he should give his negative to the question.

Mr. *Burke* begged leave to remind those hon. gentlemen who had defended sir Elijah Impey's conduct, of the immediate effect of their not supporting the question. Their sanctioning the conduct of sir Elijah, would hold out this lesson to future judges: "Copy the conduct of sir Elijah Impey, desert the strict line of your duty, abandon your impartiality, mix political interests with your judicial attentions, become instruments in the hands of government, and, opposing power to right, instead of protecting the innocent take part with the guilty." Was that a lesson fit to be taught immediately on the eve of calling some of the members of that House to fill the seat of justice? With regard to the confederacy between Mr. Hastings and sir Elijah Impey, the fact was rendered indisputable from its having been proved from the mouth of sir Elijah himself, that Warren Hastings, in defiance of his oath, and in breach of his faith to the rest of the Supreme Council, had communicated the contents of the petition of Nundcomar, as sent to general Clavering before the execution, and brought by the general to the Council afterwards, and, upon such communication, ordered to be burnt by the hands of the common hangman, as a libel on the judges. He put the case, that a collusion existed between the Attorney-general and the Chancellor of the Exchequer, and it came out that, in a matter where the former was sworn to secrecy, he had communicated the secret to the latter; would any man living entertain a doubt of the confederacy and collusion? Mr. Burke animadverted on Mr. Pitt's speech, and observed, that as it had been said of old, that if the gods were to address themselves to mankind, they would use the language of the Greeks; with equal justice might he contend, that

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if despotism itself were to speak, it would use the language, and adopt and enforce the arguments of the right hon. gentleman.

The Committee divided: for sir Gilbert Elliot's Motion, 55; Against it, 73. The following is a List of the members who voted upon this occasion:

For Sir Elijah Impey.

Adams, James	Hoghton, sir Henry
Addington, Henry	Hood, lord
Aldridge, John	Hood, sir Alex.
Apsley, lord	Howard, hon. Rich.
Arden, Pepper	Hunter, John
Bankes, H.	Jekyll, J.
Baring, Francis	Kenyon, sir Lloyd
Barwell, Richard	Kenrick, John
Bearcroft, Edward	Lewes, sir Watkin
Blackburn, John	Lowther, James
Boone, Charles	Lowther, William
Burton, Francis	Macdonald, Archibald
Bootle, Wilbraham	Macreath, Robert
Burges, John	Maddocks, John
Brett, Charles	Mesurier, Paul Le
Burton, Robert	Mornington, lord
Caswall, Timothy	Pitt, William
Cawthorn, J. Fenton	Penn, Richard
Cleveland, John	Parker, sir Peter
Cornwall, C. W.	Popham, Alexander
Courtoun, lord	Pulteney, William
Darrel, Lionel	Pulteney, Daniel
Egerton, colonel	Rolle, John
Elliott, hon. E. Jas.	Rooke, James
Elliott, hon. John	Rose, George
Fleming, sir M. Le	Scott, John
Fraser, James	Strutt, John
Gamon, Richard	Sumner, J.
Gould, sir Charles	Sutton, sir Richard
Gower, hon. John L.	Sulivan, Richard
Gipps, George	Steele, Thomas
Graham, lord	Thornton, Samuel
Grenville, William	Thornton, Richard
Grimston, hon. W.	Villiers, hon. J. C.
Hanway, sir Samuel	Westcote, lord
Harding, George	Yonge, sir George

Against Sir Elijah Impey.

Adam, William	Erskine, sir James
Anstruther, John	Elphinstone, hon. K.
Burgoyne, general	Eden, sir John
Burke, Edmund	Edwin, Charles
Bouverie, hon. Wm.	Fox, Charles James
Barnard, lord	Fullarton, colonel
Basset, sir Francis	Fitzpatrick, Richard
Bridgman, Orlando	Grey, Charles
Cunynghame, sir W.	Hare, James
Cooper, sir Grey	Hussey, William
Courtenay, John	Howell, David
Cavendish, lord Geo.	Johnstone, sir James
Crew, John	Jolliffe, William
Conway, hon. W. S.	Long, Dudley
Conway, hon. R. S.	Ludlow, lord
Clayton, sir Robert	Lambton, John
Damer, Lionel	Montagu, hon. Fred.
Elliot, sir Gilbert	Middleton, William
Ellis, Welbore	Maitland, lord
Middleton, lord	Sawbridge, John
North, G. A.	Scott, Thomas
Pelham, hon. Tho.	Stanley, Thmoas
Pelham, hon. Henry	Taylor, M. A.
Plummer, William	Thorold, sir John
Russel, lord John	Webster, sir Godfrey
Sheridan, Richard B.	Wilbraham, Roger
Aubin, sir John St.	Windham, W.
St. John, St. Andrew	

The chairman was then desired to report progress, and ask leave to sit again.

Motion respecting the Expenses of Mr. Hastings's Trial.] May 9. Mr. *Burges* said, that the House had sometime since, ordered an account of the monies issued from the Exchequer for the discharge of the expenses incurred by carrying on the trial of Warren Hastings, esq., to be laid upon the table. These commands had been complied with, but as the money was issued by impress in large sums, the House could not possibly derive any satisfaction from such an account, because it gave no information whatever as to the manner in which the sums issued were expended; neither did it enable the House to judge of the amount of the current expenses, or to form any conjecture of the probable amount of the future expense. He had no doubt of the good conduct of the honourable managers, and that every thing was conducted on the most economical principles; but, as it was the duty of that House to watch over every sort of public expense, with a view to enable them to discharge that necessary duty in the present instance, he should move, "That the solicitors to the managers appointed by this House to make good the Articles of Impeachment against Warren Hastings, esq., do lay before this House, a particular account of the expenditure of the several sums advanced to them by the Exchequer; and of such other expenses as may have been incurred by them, on account of the prosecution against Warren Hastings, esq., as far as the same can be ascertained."

Mr. *Fox* said, that to the motion he had not the smallest objection, but he begged to have it understood, that he considered the object of the motion as in no sort affecting him or the rest of the Committee. It was no part of their duty to be answerable for the expenditure of the money issued by their solicitors. They were responsible only for the services ordered, and the propriety of those services. The other duty lay with the Lords of the

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Treasury, whose province it was to manage and account for all the expenditures of the kingdom.

Mr. *Pitt* replied, that doubtless the lords of the Treasury considered it as a very delicate point to take upon themselves to interfere with the managers of the prosecution in a matter which they felt it to be their duty to watch over. It was incumbent on them to look at the current expense, and see that the money issued was economically applied. He was glad, therefore, that the motion had been made, because it would put the matter on its true issue between the managers and the treasury, who had not the proper papers upon the subject before them, and without which it would be impossible for them to discharge their duty; but, in order that the House might know, that they had not been unmindful of the subject, as soon as the sums that had been issued, amounted to any thing like a size, that appeared extraordinary, (he was far from meaning to insinuate that they were larger than was necessary,) they had sent a letter to the managers, couched in as decent and respectful terms as possible, and modestly intimating, what, in their opinion, ought be done; but as the answer they received to that letter, did not give them any great hopes of being able to derive the necessary satisfaction from the managers, he was glad that means had been resorted to, which would produce it in the way the most satisfactory.

Mr. *Burke* did not object to the motion, but with regard to what the right hon. gentleman had suggested relative to the letter which he had written to the Treasury, by order of the committee of managers, he positively asserted that it was not true.

Mr. *Pitt* said, that the right hon. gentleman, perhaps, from being accustomed to use an extraordinary licence of speech elsewhere, showed himself so much the slave of habit and practice, that he forgot the place where he was, and seemed desirous of introducing that habit and practice within those walls; for, it was scarcely possible in any other way to account for the style of his expression in the few words he had uttered. He would not, however, dwell on that circumstance, nor should any impropriety in that House prevent him from doing his duty, and saying whatever a sense of that duty dictated. The House had, undoubtedly, a right to ask whether the number of persons employed in consequence of the direction of the managers was necessary, and into the other particulars of the expense incurred on account of the trial in Westminster-hall. The expense was considerable, but no expense was unnecessary to obtain the ends of justice. Feeling in that manner, the lords of the Treasury had sent a modest hint to the managers; in answer to which they had received a letter, that did not give them any very great expectation of being able to receive much satisfactory information through the channel of such a correspondence.

Mr. *Burke* said, that as he had been accused of using very improper language, the right hon. gentleman ought to have had personal information of the fact, to which he had spoken, and not ventured an assertion respecting a matter which he had at second-hand. The right hon. gentleman had alluded to what he supposed to have passed, in a place where he seldom or ever made his appearance; but it was the curse of the right hon. gentleman's situation, to be surrounded with whisperers and tale-bearers, and to take up matters as they were conveyed to his ears by such reporters. Had the right hon. gentleman been present at the place in question more frequently, he would have known that all the reports, like that which he had relied on, were mere calumnies, and then he would not have exposed himself to the contradiction he had received. With regard to the expenses incurred by the prosecution, no expense could scarcely be too great for the obtainment of justice; but if what the right hon. gentleman had termed a modest hint was meant as taking up the expense, with a view to put an end to the trial, the right hon. gentleman should find that the managers were determined not to abandon the business. If they were refused every expense, they would still go on, and persevere till they brought it fairly to its conclusion. Mr. Burke said, he was ashamed that so paltry a consideration as the expense amounted to, should be talked of, when the great importance of the subject, and the deep interests that were involved in it, were the points in question. The money that had been stolen from India had not yet been employed in bringing the robbers to light and to justice. Their justice at home ought to bear something like a proportion to their injustice abroad. For their part, the managers would be found steady to their trust. If there should be any desirous of going out of the straight path, and turning from the right to the

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left, the Committee would not be found among the number; they would not prevaricate, but uniformly adhere to the principles of justice. With regard to the services ordered, as managers acting under the authority of the House, they had an undoubted right to order such as were in their judgments necessary; but if the House, upon examination, should give another judgment, and think they were unnecessary, where, under such a circumstance, would rest the responsibility? Undoubtedly, with the House, and not with the managers. Mr. Burke took notice of Mr. Pitt's having said, he was glad that the motion had been made, and commented on that expression coming from a right hon. gentleman who had voted with the majority of that House, in carrying the Impeachment up to the House of Lords. The present motion could only have been made by those who had uniformly opposed the trying of Mr. Hastings at all. What construction ought to be put on the conduct of a gentleman who had voted for a prosecution, and who now declared himself glad that a motion was made hostile to that prosecution? With regard to any improper expression of his when the dispute was about a fact and not an argument, the shortest and most direct reply was, in his opinion, the best. When the papers came, the House would see whether he had any apology to make or not.

The motion was agreed to. After which it was ordered, on the motion of the marquis of Graham, "That there be laid before this House a copy of the correspondence that has passed between the Lords Commissioners of his Majesty's Treasury, and the managers appointed to make good the articles of impeachment against Warren Hastings, esq. relating to the money expended on account of the said prosecution."

Debate in the Commons respecting the Slave Trade.] Mr. *Pitt* said, that he rose for the purpose of moving a resolution relative to the Slave Trade—a subject which, it was evident from the great number and variety of petitions presented to that House respecting it, had engaged the public attention to a very considerable extent, and consequently deserved the most serious notice of that House. But, whatever was done on such a subject, every gentleman must agree, ought to be done with the maturest deliberation. Two opinions had prevailed without doors, as appeared from the language of the different petitions. It had been almost generally conceived that the African Trade ought to be put a stop to; yet others had regarded it as only standing in need of some new regulations; but all had agreed that it ought not to remain under its present predicament. All the circumstances of it in point of fact, and the consequences that would necessarily result from any measure that might be adopted, would, without doubt, call for much consideration and discussion; but what these circumstances were, and what those consequences were likely to prove, were, in his opinion, unfit topics for immediate discussion, as the advanced period of the session, and the want of proper materials for the full information of the House, would render it almost impossible to go at present diffusely into the examination. The subject had better be discussed when it might produce, some useful debate, and when the inquiry instituted by his Majesty's ministers elsewhere should be brought to such a state of maturity as that the result of it might be laid before the House, in order to enable them to proceed to a decision founded on principles of humanity, justice, and sound policy. As there was not a probability of reaching so desirable an end in the state of the business as it then stood, he meant to move a resolution, pledging the House to proceed to the discussion early next session. A notice had been given early in the present session by an hon. friend of his (Mr. Wilberforce) who was prevented from attending his duty there by severe indisposition. As in the hands of his hon. friend every measure of humanity and national interest, was most likely to be advantageously placed, he hoped that his hon friend would be able at the opening of the ensuing session, to resume his charge, and bring the subject forward; but should his hon. friend not be sufficiently recovered to be able to attend, he pledged himself to bring forward some proposition himself upon the subject. The House would observe, that he had studiously avoided giving any opinion, or even glancing at any opinion that he might be supposed to entertain respecting it; and, as it was not possible to go into the discussion then, he thought it much wiser not to broach an opinion till the moment of discussion should arrive.—The titles of the several petitions being then read, Mr. Pitt concluded with moving: "That this

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House will, early in the next session of parliament, proceed to take into consideration the circumstances of the Slave Trade, complained of in the said petitions, and what may be fit to be done thereupon."

Mr. *Fox* declared, that what the right hon. gentleman had said laid him under very considerable embarrassment. He had himself considered the subject very minutely, and it had been his intention to have brought something forward in that House respecting it; but when he heard that an hon. gentleman, one of the members for Yorkshire, had resolved to take it up, he was unaffectedly rejoiced, not only knowing that gentleman's purity of principles and sincere love for the rights of humanity, but because, from a variety of considerations as to the characters and situations in which different men stood in that House, there was something that made him honestly think it was better that the business should be in the hands of the hon. gentleman than in his, and that it was much more likely to come from the hon. gentleman with more weight, more authority, and more probability of success than it could from himself.— Having premised this, Mr. Fox said, that as so many petitions, and those signed by such numbers of persons of the most respectable character, had been presented, he was extremely sorry that it had been found impossible that the subject of them should be taken up this year. He certainly could not impute it as a matter of blame, that the case had not been otherwise, and lamented, as every gentleman must do, the absence of the hon. gentleman who had undertaken to bring it forward, and still more the cause of that absence. The right hon. gentleman had said, he thought there were circumstances that might happen by the next year, that would make it more advisable and advantageous to take it up then, than it would have been to enter upon it in the present session. In answer to this he must declare, it was his opinion, that no such circumstance could happen.—From one part of the right hon. gentleman's speech, he presumed it was the inquiry into the subject that had been instituted by the lords of his Majesty's privy council that was alluded to, as the source to which that House was to look up for some necessary information. To the justice and propriety of that proposition he must give a flat denial; because there could be no information laid before that House, through the medium of the lords of the privy council, that could not much more advantageously have been obtained by that House, had they themselves instituted an inquiry. It was their duty to advise the King, and not to ask his advice. This the constitution had laid down as one of its most essential principles; and though in the present instance, he saw no cause for blame, because he was persuaded his Majesty's ministers had not acted with any ill intention, it was a principle that ought never to be departed from, because it never could be departed from without establishing a precedent that might lead to very serious abuse. He lamented that the privy council, who had received no petitions from the people on the subject, should have instituted an inquiry, and that the House of Commons, the table of which had been loaded with petitions from all parts of the kingdom, should not have instituted any inquiry at all. He hoped those petitions would have a fair discussion in that House, independent of any information that could be given the House by his Majesty's ministers. He could not, therefore, help lamenting that the subject had not been brought forward earlier: when he said this, he was aware that the hon. member who had undertaken it, was rendered incapable of attending the House; and he was also aware how unpleasant it must be for any one of that hon. gentleman's friends to have come forward, and answered for him, by saying that his health was such that he would not be able to attend during that session. It was certainly a very delicate thing to do, and what no gentleman could easily bring himself, on any occasion, to stand up and declare. He did not, therefore, impute blame any where on account of the delay, but he certainly lamented it extremely. A right hon. gentleman, every way competent, had said that it was to be brought forward in the course of the next session of parliament; and if his hon. friend could not then attend, he stood pledged to propose it himself. Surely it was somewhat strange that the right hon. gentleman had not given the House his sentiments on the subject, and the general view in which he meant to take it up. It was not a subject that was new, and on which gentlemen had formed no opinion; on the contrary, it was one on which most men had formed some opinion or other. He wondered, therefore, the right hon. gentleman had not hinted what his opinion was. Had his hon. friend been able to have come to

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the House, and proposed postponing the business till next session, they would have derived another advantage from his presence, because the hon. gentleman would doubtless have stated to the House in what view he saw the subject, and in a general way described the nature of the project he meant to propose next session. The opinion of the right hon. gentleman opposite to him, Mr. Fox said, he understood *primâ facie*, to be the same as his own. But what his intention was, they knew not; with what view, and for what object he meant to bring the subject forward, he had left them completely in the dark.—The right hon. gentleman was pleased to observe, that it had been a very general opinion that the African Slave Trade should be put a stop to. Again, he had said, that others had not gone so far, but had given it as their opinion, that it required to be revised and regulated. Mr. Fox said, he had no scruple to declare, in the onset, that his opinion of this momentous business was, that the Slave Trade ought not to be regulated, but destroyed. To this opinion his mind was pretty nearly made up, and he was persuaded, that the more the subject was considered, the more his opinion would gain ground; and it would be admitted that to consider the subject in any other manner, and on any other principles than those of humanity and justice, was idle and absurd. If there were any such men, and he did not know but there were those, who, led away by local and interested considerations, thought the Slave Trade might still continue under certain modifications, those men were the dupes of error, and mistook what they thought their interest, for what he would undertake to convince them was not their interest;—since nothing could be the true interest of any description of men that revolted against the principles of justice and humanity.—He said he would not oppose the question, if other members thought it was best to let the consideration, important and pressing as it was, stand over to the next session; but he should have thought it still better if it had been brought on then. He again enumerated the superior advantages of an inquiry into such a subject, carried on within those walls over an inquiry carried on before the lords of the council. In inquiries carried on in that House, they had the benefit of every circumstance of publicity, which was a most material benefit indeed, and which of all others made the manner of conducting the parliamentary proceedings of Great Britain the envy and admiration of the world. An inquiry there was better than an inquiry in any other place, however respectable the persons, before and by whom it was carried on. There, all that could be said for or against the abolition of the African Slave Trade might be uttered. In that House every relative fact would have been produced, no information would have been withholden, no circumstance would have been omitted that was necessary for elucidation, nothing would have been kept back. There were some objects of inquiry fitter for the privy council to investigate; but there was no public question so fit for them as for that House to inquire into; and the present was a question of public importance, and therefore peculiarly proper for investigation before that popular assembly. Mr. Fox said, he did not know any political question that could be considered in the abstract, or without a reference to the circumstances of the country. He declared he took up the present subject from principles not only of justice and humanity, but from an investigation of those principles, and a consequent conviction that there could be no regulation founded in those principles that would prove injurious to mere political considerations. Those mistaken men, therefore, who, led away by the delusive ideas of self-interest, thought otherwise, had only to hear the case fairly argued, to lead them to subscribe to the propriety of the maxim he had stated, and to own its truth in spite of the fallacies of those who argued from cold policy, and for what they called the prosperity of the country.

Mr. *Pitt* declared, that nothing he had heard convinced him of the propriety of departing from the rule he had laid down for himself, of studiously avoiding to offer any opinion on the subject, till the time should arrive when it could be fully argued. The subject was broad and extensive, and ought to be examined in every point of view. It would have been utterly impossible to have come to any discussion of the subject which could have been brought to a conclusion in the course of the present session. Did the inquiry before the privy council, then, amount to a loss of time? so far from it, that, on the whole, time had been gained. He had moved the resolution, therefore, to pledge the House to bring on the discussion early in the next session, when they would have a full opportunity of considering every part of the

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subject; first, whether the whole of the Trade ought to be abolished, and, if so, how and when? If it should be thought that the Trade should only be put under certain regulations; what those regulations ought to be, and when they should take place? These were questions that must be considered; and therefore he had made his resolution as wide as possible.

Lord *Penrhyn* said, there were two descriptions of men, one, those who where concerned in the African trade; the other, the planters, whose characters had been blackened, and whose conduct had been grossly calumniated; both wished anxiously that an inquiry might be instituted, conscious that the more their conduct was examined, the less they would be found to merit the opprobrium with which they had been loaded. The charges against the Slave Trade were either true or false. If true, the Trade ought to be abolished; if false, justice ought to be done to the characters of those who were concerned in it.

Mr. *Burke* remarked, that the noble lord being a man of justice himself, had reasoned according to the dictates of his mind, and, conscious of his own integrity, was very naturally led to imagine, that other men were equally just and honourable. Undoubtedly, the African merchants and planters had a right to call for an investigation of their conduct, and their doing so, did them great credit. The Slave Trade ought to be inquired into; it ought to be fully and maturely considered; but he agreed with the Chancellor of the Exchequer, that the subject could not be discussed this session, and that it was right that ministers should inquire into its merits. His Majesty's ministers had done their duty, while that House, who had the petitions of the people on their table, had deferred an inquiry. If that House wished to preserve their functions, their understandings, their honour, and their dignity, he advised them to beware of committees of the privy council. If they suffered the business of the House to be done by such committees, they were abdicating their trust and character, and making way for an entire abolition of their functions, which they were parting with one after another. Thus "star after star goes out, and all is night." If that House neglected the petitions of its constituents, that House must be abolished, and the privy council substituted in its stead. What would prove the consequence? His Majesty's ministers, instead of consulting that House, and giving them the opportunity of exercising their functions of deliberation and legislation, would modify the measures of government elsewhere, and bring down the edicts of the privy council to the House to register. He was one of those who wished for the abolition of the Slave Trade. He thought it ought to be abolished on principles of humanity and justice. If, however, opposition of interests should render its total abolition impossible, it ought to be regulated, and that immediately. The House need not send to the West Indies to know the opinions of the planters on the subject; they were to consider first of all, and abstracted from all political, personal, and local considerations, that the Slave Trade was directly contrary to the interests of humanity; and that the state of slavery, however mitigated, was a state so improper, so degrading, and so ruinous to the feelings and capacities of human nature, that it ought not to be suffered to exist. Protraction might raise hopes in the unfortunate people, whose freedom they were anxious to restore, that might produce infinite mischief, if suffered to remain long ungratified. They ought, therefore, as soon as possible, to go into an investigation of the subject, as well for the sake of the planters as the slaves, to prevent the dangers that might result from protraction, and in order to allay the hopes and fears that might have been excited on the one hand, or entertained on the other.

Mr. *Gascoyne* had no objection to the discussion standing over to the next session, provided it could not come on in the present, because he was persuaded that his constituents, who were more immediately concerned in the Trade, were men of such respectable characters, that they were above the reach of calumny, and might despise any imputation that ill-founded prejudice could cast upon them. Gentlemen might have observed, that not a single petition had been presented to the House against the measure, which the numerous petitioners, whose petitions had been received, prayed for. He thought it necessary to inform the House, that he had long since received three petitions against it; but upon consulting his Majesty's ministers, it had been deemed most advisable not to present them to the House, but to refer them to the privy council, who had the subject under their consideration, and who, he hoped, would print their re-

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port, when they should have brought their inquiries to a conclusion, in order to enable all concerned, to form a judgment of what was proper to be done respecting the subject next session. He wished therefore to know how soon they would be able to print their report? With regard to the abolition of the Slave Trade, he thought it unnecessary, visionary, and impracticable; but he wished some alteration and modification of the Trade to be adopted. In considering the subject, however, he hoped the House would not forget the trade, commerce, and navigation of the country.

Mr. *Rolle* said, he had received instructions from his constituents to inquire if the grievances alleged to result from the Slave Trade were founded, and if it should appear that they were, to assist in applying a remedy. He was glad the hon. member had put off the discussion till the next session, as it would give gentlemen an opportunity of considering the subject with more mature deliberation.

Mr. *Martin* asked, supposing the slaves were treated ever so humanely, when they were carried to the West Indies, what compensation there was for their being torn from their nearest relations, and from every thing that was dear to them. He hoped that no political advantage, no national expediency, would weigh in the scale against the eternal rules of moral rectitude. When the subject therefore came to be fully discussed, he should think himself the wickedest wretch on earth, if he did not do every thing in his power to put a stop to the Slave Trade.

Sir *W. Dolben* said, that although the university of Oxford had not presented any petition for the abolition of the Slave Trade, they had instructed him to assist in attaining that desirable object, and with a piety becoming that venerable body, to propose, by the distribution of religious books and other means, the taking of some steps towards the improvement of the minds of the African slaves, and inculcating a due sense of their moral and religious duties. He did not intend, at present, to enter into the discussion of the abolition of the Trade but he wished to say a word or two on a matter that in his mind was a most crying evil, and called for an immediate remedy, and that was the intermediate state of misery suffered by the slaves. He neither alluded to their sufferings at home at the hands of their cruel countrymen, nor to their sufferings from their unfeeling masters, the planters in the West India islands, but to that intermediate state of tenfold misery which they suffered in their transportation from the coast of Africa to the West Indies. He was ready to call evidence to the bar to prove the fact. When put on ship-board, the poor unhappy wretches were chained to each other hand and foot, and stowed so close, that they were not allowed above a foot and a half each individual. Thus crammed together, like herrings in a barrel, they generated putrid disorders, and all sort of dangerous diseases; so that when their overseers came to look over them in the morning, they had daily to pick numbers of dead slaves out of their rows, and to unchain their carcasses from the bodies of their wretched fellow-sufferers, to whom they had been fastened. Nor was it merely to the slaves that the baneful effects of the contagion thus created was confined; it affected the ship's crew, and numbers of the seamen employed in the horrid traffic died every voyage. This called aloud for a remedy, and that remedy ought to be applied immediately. If they did not apply some remedy without delay, between the present session and the beginning of the next, 10,000 lives would be lost. He therefore wished this grievance to be taken into consideration, independent of the general question; and that some regulation, such as restraining the captains from taking above a certain number of slaves on board, according to the size of their vessels, obliging them to let in fresh air, and provide better accommodation for the slaves during their passage, and such other regulations as should suggest themselves to the House, should be adopted,

Mr. *Young* thought it extremely proper that the consideration of the subject should go over to the next session.

Lord *Penrhyn* said, that he only spoke for himself and his constituents, when he pressed for an immediate inquiry into the Slave Trade. The African merchants felt their characters hurt, and therefore they had an undoubted right to call for an early investigation of the subject, that their reputation might be cleared from the ill-founded calumny which had been thrown upon it. With regard to the facts stated by the hon. baronet his argument proved too much, because the whole profit of the voyage of the captains employed in the Slave Trade arose from the number of negroes they could bring to the West-India market in good health; and therefore it was so much their interest to

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preserve them that it was not likely they should suffer them to generate mortal diseases in the manner described.

Sir *James Johnstone* professed himself a friend to the abolition of the Slave Trade, and said that it was highly necessary that the House should, as soon as possible, come to some decision on the subject, as the news of the intention of the legislature to adopt some measures in their favour had reached the West-India islands, and unless ascertained, the poor creatures hopes might be raised too high, and bad consequences might follow. He had lately heard from the island of Grenada, and there the slaves were so full of the subject that the common exclamations among them were, "Mr. Wilberforce for negro! Mr. Fox for negro! The Parliament for negro! God Almighty for negro!"

Mr. *Lorraine Smith* was an advocate for the abolition of the Trade, and observed, that those gentlemen who admitted that some regulation was necessary, by implication admitted that some abuses did exist in that traffic, because of necessity, if regulations were proper, there must exist something that required regulation.

Mr. *Pitt* said, he was almost certain that the committee of privy council would not be able to bring their inquiry to a conclusion in time to print their report before the session ended.

Mr. *Bastard* said, the whole country had petitioned; and was it any satisfaction to the country to say, the committee of privy council are inquiring? Who knew any thing of what was doing by the committee of privy council, or what progress they were making? The inquiry ought to have been instituted in that House, and in the face of the public, that every body concerned might know what was doing. Petition after petition had been presented, and was it any answer fitting that House to say, "We cannot attend to your petition to-day; to-morrow we hope to have a holiday; and we must defer inquiring into the allegations of your petitions till next session." How reproachful was such a delay, when an hon. baronet had stated facts which were shocking to humanity, and called for an immediate remedy. The hon. baronet had offered to prove the facts at the bar of the House. He hoped, therefore, he would move, that a committee might be appointed to inquire into their existence, that a remedy might be applied before the sailing of the next ships to Africa; and that the House might know what time they had to spare for this purpose, he desired to learn how often in the year the ships employed in the Slave Trade sailed to Africa.

Sir *W. Dolben* answered, that ships were sailing from the various ports of the kingdom to the ports of Africa ev ry fortnight.

Mr. *Whitbread* professed himself a strenuous advocate for the abolition of the Slave Trade.

Mr. *Pelham* said, that he had not sufficient confidence in his own abilities and information, to bring forward a proposition on the Slave Trade, unless he thought that he should be honoured with the support and assistance of the House; but he had very maturely considered the subject, and had he not known, that the business was in the hands of an hon. gentleman, whose absence from the House, and the cause of it, no man lamented more sincerely than himself, he should have ventured to have proposed a plan for the regulation of the Slave Trade, that appeared to him likely to produce some salutary effects.

Mr. *Pitt* declared, that he should be extremely happy, if he thought the circumstances of the House were such as to enable them to proceed to an immediate discussion of the subject; but as that did not appear, from the reasons he had before stated, to be the case, he could only assure the hon. gentleman, that the same motives that would induce him to oppose an inquiry into the subject early in the next session of parliament, would make him rejoice to receive any information and assistance in the interim from every gentleman who would so far favour him, and help to bring the matter to a point.

Mr. *Pelham* said, that if it were judged improper to abolish the Slave Trade entirely, the sooner it should be regulated the better; and therefore, after what the right hon. gentleman had said, he would take an opportunity of submitting a proposition to the House on the subject in the course of the present session.

The Resolution was agreed to *nem. con.*

Debate in the Commons on the Petitions relative to the Government of Quebec.] May 18. Mr. *Powys* moved, that the Petition of the ancient and new subjects of his Majesty, the inhabitants of the province of Quebec, which was presented to the House on the 11th of March, might be again read. The same was accordingly

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read, setting forth, "That, after the conquest of the province of Canada by the arms of Great Britain, the Petitioners, in compliance with his Majesty's Proclamation, bearing date the 7th day of October 1763, settled and became established in the new-acquired colony of Quebec, in full reliance on the faith of the Crown of Great Britain, as expressed in that Proclamation, for the enjoyment of those laws, that freedom and security in Canada, which the principles of the English Constitution afforded in every part of the British dominions in America; and that the petitioners and the inhabitants of the province have cheerfully, on every occasion, obeyed the controlling powers of the Parliament of Great Britain, and with patience have suffered, during a period of anarchy and war, rather than wound his Majesty's feelings, or embarrass the Parliament with remonstrances and petitions, at a time when the safety of the nation made sacred every moment of public deliberation. The actions and conduct of the petitioners, when truly represented, will best express the sincerity of their loyalty and attachment to the Crown and Government of Great Britain; and that the petitioners look with concern on the burthen of Great Britain, and with great pain and commiseration they see the distresses of his Majesty's loyal subjects, who, driven from their estates, wealth, and possessions, are daily taking shelter in this British colony, though their unsettled and distressed situation may, for the present, hinder them from bringing forward their petitions and their claims: the House will readily perceive that a government similar, or superior, to that under which they were born, had lived, and were happy, must be considered, by those his Majesty's unfortunate subjects, as an affectionate proof of his Majesty's paternal care, and of the parliament's regard for them, and as the first comfort which, in relief to their distresses, can now be granted to them; and the more so, as it will be a blessing not merely granted to them, but extended to their children and posterity; and that the petitioners, fully persuaded that the welfare and happiness of all his Majesty's subjects are peculiarly objects of the serious and benign consideration of the Commons of Great Britain, they therefore beg the attention of the House to this their petition, and ardently request that the House will interpose in their favour for the repeal of the Quebec Bill, allowing such privileges as are already granted to the Roman Catholic Religion, as being inadequate to the government of this extensive province, the cause of much confusion in our laws, and fraught with trouble and uneasiness to his Majesty's loyal subjects here, and that the House will be pleased to concur in establishing his Majesty's affectionate subjects of this province in the full enjoyment of their civil rights as British subjects, and in granting them a free elective house of assembly: in these hopes they presume to suggest, that clauses of the following import may be inserted in the Act of Parliament, which shall be made to confirm a free constitution to this country.

1st. "That the House of representatives or assembly be chosen by the parishes, towns, and districts of the province, to be composed of his Majesty's old and new subjects, in such manner as to the wisdom of Parliament may seem most proper; that the assembly be triennial, and the members elected every three years.

2nd. "That the council consist of not less than thirty members, and, in case of division on any measure before them, that no act shall be passed unless at least twelve members agree to carry the vote; that the appointment of the members may be during their residence in the province, and for life, yet subject to temporary leave of absence, as mentioned in the 11th article, and that they serve as counsellors without fee or reward.

3rd. "That the criminal laws of England be continued as at present established by the Quebec Act.

4th. "That the ancient laws and customs of this country respecting landed estates, marriage settlements, inheritances, and dower, be continued, yet subject to be altered by the legislature of Quebec; and that owners may alienate by will, as provided by the tenth section of the Quebec Bill

5th. "That the commercial laws of England be declared to be the laws of this Province, in all matters of trade and commerce, subject to be changed by the legislature of Quebec, as in the preceding article.

6th. "That the Habeas Corpus Act, of the 31st of Charles 2, be made part of the constitution of this country.

7th. "That optional juries be granted on all trials in courts of original jurisdiction, that they be regularly balloted for, and a

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pannel formed as in England, either in the case of an ordinary or a special jury, at the option of the party applying for the same; and that nine members out of the twelve may in civil causes be sufficient to return verdicts, subject to be modified by the legislature of Quebec, as in 4th article.

8th. "That the sheriffs be elected by the house of assembly, and approved and commissioned by the governor at the annual meeting of the legislature, that they hold their appointment during the period elected for, and their good behaviour, and that they find reasonable security for a faithful discharge of their duty.

9th. "That no officer of the civil government, judge, or minister of justice, be suspended by the governor, or commander-in-chief for the time, from the honours, duties, salaries, or emoluments of his appointment, but with the advice and consent of his Majesty's council for the affairs of the province, which suspension shall not continue after the annual sitting of the council, unless it be approved by the same; the cause of complaint, if approved, to be thereafter reported to his Majesty for hearing, and judgment thereon.

10th. "That no new office be created by the governor or commander-in-chief for the time, but with the advice and consent of his Majesty's said council, and to be approved at their annual meeting, as in the preceding article.

11th. "That all offices of trust be executed by the principal in the appointment, unless by leave of absence from the governor, with advice and consent of his council, which leave of absence shall not extend to more than twelve months, or be renewed by the governor, but with the approbation of the council at the annual session.

12th. "That judges be appointed to preside in the courts of the province to hold their places during life, or their good behaviour, and that they be rewarded with sufficient salaries, so as to confine them to the functions of administering justice; that every cause of accusation for a removal, proceeding from the governor, shall follow the rule laid down in the 9th article; and every cause of accusation for a removal, on the part of the public, shall proceed from the house of assembly, and be heard by the council, which, if well founded, shall operate a suspension, and in either case be decided in appeal and report to his Majesty.

13th. "That appeals from the courts of justice in this province, to the crown, be made to a board of council, or court of appeals, composed of the right honourable the lord chancellor, and the judges of the courts of Westminster-hall.

14th. "The petitioners beg leave to represent to the House, that, from their proximity to the United States, who from situation and climate have many advantages over them, the internal regulations for promoting the trade, agriculture, and commerce of this province, are now become more intricate and difficult, and will require great care and attention, on the part of the legislature here, to watch over the interests of this country; they therefore request that the assembly may have the power of laying the taxes and duties necessary for defraying the expenses of the civil government of the province, and for that purpose, that the laws now existing, laying taxes and duties to be levied in the province, may be repealed.

"Such are the intreaties and prayers of the loyal subjects of this province, and in full confidence they trust that the House will relieve them from the anarchy and confusion which at present prevail in the laws and courts of justice of this province, by which their real property is rendered insecure, trade is clogged, and that good faith which ought and would subsist among the people, and which is the life and support of commerce, is totally destroyed, and be pleased to secure to them a constitution and government on such fixed and liberal principles as may promote the desire the inhabitants of this province have of rendering this mutilated colony a bright gem in the imperial crown of Great Britain, and that may call on the present generation for their unceasing acknowledgments and gratitude, and upon the future to feel as the present that the security and happiness of the people and province of Quebec depend on an union with, and submission to, the crown and government of Great Britain."

The petition of the merchants trading to Quebec, and the petition of Adam Lymburner, agent from the province of Quebec, being also read, Mr. Powys moved, that the House should resolve itself into a committee to consider of the said petitions, and that Mr. Lymburner be heard on the matter of the said petitions. This being agreed to, the House went into the Committee, Mr. Lymburner was then called to the bar,

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and read a variety of written documents, stating the proceedings which had taken place before the judges in Canada, from whence it appeared, that their decisions had been formed on vague and indeterminate principles, one deciding according to the Roman law, another according to the French law, a third according to the English law, and a fourth, without regard to any code of law, but solely in conformity to the dictates of his conscience. The documents also afforded proof of the existence of a variety of acts of oppression and injustice in the practice of the law in Canada, which called aloud for remedy.

Mr. *Powys* now rose. He said, that he well knew that the subject to which he meant to call their attention was not, in spite of its magnitude, likely to engage the general attention of the House, because it did not immediately affect their interests, nor those of their constituents. It however involved the prosperity of a whole province; a province great in extent, considerable in population; a province which the House and the country had been taught to look up to as likely, in some measure, to recompense the loss of the colonies that now constituted the United States of America. The part of it called the province of Quebec was inhabited by three different descriptions of persons; first, the ancient inhabitants and natives; next, the multitude of settlers from Great Britain, and the other parts of Europe; and lastly, the great number of loyalists, who, having forfeited their estates, and been forced to abandon their situations, in consequence of their loyalty to the crown of Great Britain, and their affection and love for our government and laws, had fled for refuge to the province of Canada. These loyalists were of two sorts, those under sir John Johnson in the upper parts of Canada, who had requested his Majesty to form them into a distinct settlement; the others, persons of a different description, but who feeling equally the pressure of the law, as it now stood, had petitioned that House for relief, and had been joined in their prayer by the merchants resident in Canada, and trading to that province. The object of the petition was, to relieve them, and emancipate them from that absurd code of laws which was unjustly called the Constitution of Canada. Was there, among the various descriptions of persons resident in Canada, any to whom the principle of disloyalty could be imputed, and on whom the stigma would attach? On the contrary, did not every inhabitant of that province avow the principle of loyalty? Were they not therefore entitled to protection? Mr. Powys mentioned, that Canada came into our hands in 1763, that soon afterwards Government published a proclamation, declaring, that as soon as circumstances would admit, British laws should be extended to Canada, and a suitable system of government adopted. Under the faith of that proclamation, many persons had settled in Canada. He then stated that rash and fatal measure, the Quebec Act (as it was called) which passed in 1774, that instituted a new form of government, creating a legislature, council, judges, and officers, under certain rules and regulations. No man had contended, when the Bill was under discussion, against its being merely a Bill of experiment, and meant only to have effect for a limited period. Having read some passages from the Act, and quoted the words "for a certain time," as an unanswerable proof, that the Bill was meant only to be a temporary law, Mr. Powys pointed out powers that the Bill gave, under which a certain number of persons were invested with peculiar authorities, without any limited time, and had the authority not only of making the law, but of declaring and administering it. He asked if that was not the precise criterion of a despotic government? He could quote one of the highest and most respectable opinions for declaring that it was. He alluded, he said, to Mr. Gibbon, who, speaking of the fall of the Roman Empire, stated, "that the form of a free government was totally lost, from the moment that the executive department became the legislative."—Mr. Powys next observed, that a variety of nice and interesting questions must necessarily depend on the due decisions of the courts in Canada, in cases of civil right; that personal liberty was a civil right; and what sort of security had the subject for his personal liberty where the law was undefined, loose, and unfixed? In cases of property, the laws of Canada were so vague and uncertain, that, from one or two of the documents read at the bar, it was proved, that neither the judges nor the lawyers pretended to know what the law there is. He reminded the Committee that it had been proved that some judges governed their decisions by the municipal or Roman law, others by the French law,

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others by the English, and that another had declared he neither knew nor cared what the law was; there was no necessity for his knowing it, he should always decide according to his conscience. No country could be said to be well regulated that was suffered to remain in such a condition.—The next question was, what ought to be done to cure these evils, to introduce order, and render the rules of legal decision regular and uniform? It required only a communication of those privileges which were the birth-right of every subject of the realm. If the inhabitants of the province of Canada were unworthy of those laws, let the grounds of that unworthiness be stated; but no man, surely, could controvert the reason, the propriety, the necessity of admitting the inhabitants of a British province to a full and free participation of the blessings of English laws.—Another material object necessary to be regulated would be the giving the judges a greater degree of independence, and lessening the servility and dependence of the superior officers. But a principal point among all the considerations was, the giving the province a house of assembly. What danger was there in following the examples this country had recently set in the colonies of Nova Scotia and New Brunswick. Did they imagine the ancient Canadians had still any violent prepossession for their own laws, or were disloyal? If they were well affected and loyal, they ought to be suffered to enjoy the blessings of our liberty, and feel the happiness of our security.—Another consideration was, how far the institution of a House of Assembly was an object of revenue? Was the province of Canada always meant to be supported upon the bounty of this kingdom? If not, why should not the province of Canada tax themselves, and thus provide for the expenses of their own government? The inhabitants had strongly stated their ability, and their readiness to pay. Mr. Powys pointed out the distinction between this country attempting to tax its provinces, a power which that House had renounced, and suffering a province to tax itself, for the purpose of defraying its own internal charges of civil government. It was true ministers had advised his Majesty to command an ordinance to be published at Quebec, giving the inhabitants the benefit of the Habeas Corpus Act, for two years, and at the expiration of that period it had been continued for two years longer; but he wished the British subjects in Canada to enjoy the Habeas Corpus Act as a matter of right, as we did at home, and not as a matter of favour, revocable at the will of the Crown. These were the chief points that he wished the Committee to take into their consideration.—He next recapitulated the circumstances that had occurred on the subject, since the province of Canada was first ceded to Great Britain. He stated the reasons assigned for not before settling a regular form of government, and the manner in which the parties petitioning had noticed them. They had been aware that, during a long war, it was impracticable; the period of war was now over, and peace had been established for five years. The parties had the satisfaction also to see in places of the highest authority those persons to whom they owed gratitude for past favours, and to whom they looked for future support. The Committee well knew the ground on which the motion which he made in 1786 was negatived. Ministers had told the House they meant to send out full instructions for an inquiry in Canada, in order to procure the necessary information, and promised to lay the result before the House. Lord Dorchester went out in 1786, and, as soon as he arrived, he summoned the legislative council, communicated his instructions, and directed them to institute an inquiry. To aid them in that inquiry the assistance of a committee of merchants was called in. Such committees were instituted both in the districts of Montreal and Quebec. They made a report which was read in a full assembly of old and new subjects, without one dissenting voice. If the information that had been in consequence transmitted to England, was not deemed a sufficient body of information to ground a parliamentary proceeding upon, he begged to know what would be so considered, and what farther information that House was to look for? He spoke of the character of lord Dorchester, and said, he highly esteemed him in every capacity but that of a legislator, and therefore his own private opinion would be to him, of less consequence than that of any other individual conversant with the subject. The business had been taken up by merchants of the first character here and in Canada. It deserved every attention from the House, and more so, as it was, in his opinion, their peculiar duty to look to those parts of the empire which were not

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represented in parliament. The petitioners were respectable and loyal subjects, the petitions were decent and reasonable, and the information before the Committee was sufficient to justify them at least in commencing an investigation as the ground of a subsequent proceeding. After an apology for undertaking an office more properly the office of his Majesty's ministers, Mr. Powys concluded with moving, "That it is the opinion of this Committee, that the said petitions deserve the immediate and serious consideration of parliament."

Sir *M. W. Ridley* conceived, that no man would deny that the inhabitants of Canada were obedient subjects, and that it ought to be the constant principle of government, equally attaching upon the governors and the governed, that the laws ought to state and define the extent of obedience required from the subjects, and the degree of protection to which they had a claim. In respect to the province of Canada, the laws were so totally misunderstood, that each judge governed himself by the rule of law most agreeable to his own mind, and no man was able to say whether he acted rightly or not. If a colony, earned at the expense of so much treasure, and gained by the loss of some of the best blood, and of the bravest lives in the service of the country, was worth maintaining, there could not be a doubt of the necessity of establishing some regular system of government, under which the security of personal liberty and personal property should depend, on known, defined, intelligible, and established laws. He mentioned the peculiar circumstance of the natives having been formerly the subjects of a different government, and thence drew an argument to prove the necessity of attaching them to the British government by acts of friendship and favour, stating that they came to the bar humbly and respectfully, and appealing to the good sense as well as justice of the Committee, whether they should not hold out to them some hope, that if they could not then, they would shortly afford them the relief they required.

Mr. *Pitt* said, that unless he greatly misunderstood the case, the hon. mover and he differed so little in general upon the present subject, that he should feel himself sorry to dissent from him as to the time most fit for the discussion of the resolutions, that the motion must necessarily be followed up with. If they had, at that time, the means of deciding upon it to any material purpose, he admitted it should be early made an object of attention. He wished to know, before he proceeded farther, if the hon. gentleman was prepared to state to the Committee any idea as to what point the present motion was to lead.

Mr. *Powys* said, he had not the smallest difficulty in declaring, that provided the present motion should be adopted, he meant to follow it up by calling the attention of the House, *seriatim*, to each distinct object which he had enumerated; the rendering the writ of Habeas Corpus a matter of right, the granting independence to the judges, the lessening the servility and dependence of the superior officers of justice, and the establishing an House of Assembly. Having moved resolutions upon each, as grounds of a bill, if the right hon. gentleman should not be able in the course of that session to carry the bill through, the resolutions would convince the inhabitants of Canada, that the House had attended to their petitions, and would teach them what they were to expect.

Mr. *Pitt* said, that he did not dispute the principle of thus desiring the attention of the Committee to the several points stated by the hon. gentleman, which he took to be the institution of an House of Assembly in Canada, a new regulation relative to the situation of the merchants there, an alteration relative to the superior officers, and lastly an increase of the independence of the judges. All these points, he owned, were important, and in respect to most of them, generally speaking, his opinion coincided with that of the hon. gentleman; but he would not then go into their discussion, because he was convinced that the consideration could not possibly come on during the present session. And when he made this declaration, he begged not to be understood as advancing it, because he did not think the subject an object of importance, nor because, when it did come on, that he should vote against it, though he did not say he should vote for it; but because they wanted more information than ministers had yet been able to obtain, and which they were likely to receive against the next session; and because he wished that, whatever decisive step should be taken under the present circumstances, it might not, as it probably would, prove deserving of the description which the hon. gentleman had given of the Quebec Bill, and be found "a rash and

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fatal measure." When the circumstances of any colony would permit, it was his decided opinion that they ought to extend to it as much of the English laws as they could with propriety, but he was far from thinking that any well-digested proposal could be brought forward at that period of the session. With respect to the House of Assembly, two years ago the hon. gentleman had himself said, the subject was so delicate that he was not prepared to propose it; and at present, the deciding upon the measure was infinitely more delicate and difficult. The province was, according to the last advices, divided into parties of disputants, on the question, of which was the mode of government most fit to be adopted. To give Canada an House of Assembly, therefore, under the present circumstances, would be to change a solid blessing into a substantial curse, and to entail endless controversy and dispute, by erecting a seat for contest. As to what the hon. gentleman had said of Nova Scotia and New Brunswick, those colonies bore not the most distant analogy to that of the province of Canada. With regard to the Habeas Corpus Act, it could not surely be urged, that there was much pressure in point of time in respect to that, because it had been admitted by the hon. gentleman, that in consequence of an ordinance, Canada was already in possession of that benefit, but not exactly in the manner stated by the hon. gentleman, because ministers had not recently sent out orders to grant them the benefit of the Habeas Corpus Act, but it had been long since granted, and the ordinance was almost an exact transcript of the act of Charles 2. It might possibly be contended, that the Habeas Corpus Act so granted, might be repealed at his Majesty's discretion. It was undoubtedly true, but did any man seriously suspect that there was any danger of his Majesty's ministers depriving the Canadians of the benefit of the Habeas Corpus Act? As to the necessity of applying English laws generally to the province, he could only say, that lord Dorchester had sent over to his Majesty two counter-petitions from most respectable persons, expressly deprecating the extension of the English laws to Canada, and praying the direct contrary from the object prayed for by the petitions on the table. As far as his opinion went, Mr. Pitt said, he wished for the introduction of English laws as extensively as possible, being perfectly convinced of the value of the benefits and blessings they would communicate to those to whom their operation was extended. But if he were asked, if he thought that precipitately pushing on the discussion of the subject then, without full information, would answer the purpose even of the hon. gentleman himself, who, he was persuaded, had brought on the discussion from the best and most honourable motives, he was compelled to say, he thought it would not. It was true, they had some information before them, that afforded them considerable light upon the subject, but not all the information necessary; and, therefore, to bring forward any proposition, that although, it promised to be beneficial to the province, when it could not be fully considered, was likely to lead to a system that might effectually destroy the position laid down by the hon. gentleman himself, was so preposterous, that he declared he felt himself obliged to move, "That the chairman do leave the chair."

Mr. *Fox* said, that he could not advert, without astonishment, to the circumstance of the King's minister having risen in that House, without shame to himself, to say he was waiting for more information, and was not prepared to meet the motion; a motion, the propriety of which he commended in general terms, and every one of the objects of which he appeared to approve. The right hon. gentleman had told them that he was waiting for the opinion of lord Dorchester. No man respected the noble lord's character as an officer more than he did. This country owed him much, but the Committee knew that the whole of his evidence on the Quebec Bill contained opinions wholly foreign to the spirit, and uncongenial with the nature of the English constitution. Lord Dorchester, therefore, was the last man living whose opinion he would wish to receive upon the subject. Two years ago his hon. friend had brought forward the question, and the right hon. gentleman had then said, that he was waiting for information; two years had since elapsed; and had not two years been sufficient to obtain the necessary information? What better period could occur for discussing the subject than at that moment? The petitions on the table gave them all the necessary information, and they ought to proceed so as to prevent the possibility of receiving more petitions. Would that Committee endure to be told, at a subsequent time, that ministers were still waiting for information, and yet, from any

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thing which the hon. gentleman had urged, they might be so told, year after year, for ten or twenty years to come. He begged the Committee to consider that it was no new subject, and that it was two years since it had been last agitated, and fourteen years since the Quebec Act had passed. Had the excuse been, that the minister wanted time to attend to the subject, he should have thought it a miserable plea, but miserable as it would have proved, it was a better excuse than the pretence resorted to. They had upon their table petitions from persons of weight and distinction in Canada. Whatever the right hon. gentleman might say of counter-petitions, the Committee knew of none. If the right hon. gentleman was in possession of any, why did he not lay them on the table, and thus avoid putting a member of parliament to the difficulty of arguing upon petitions, of the contents of which the Committee were ignorant? With regard to the points suggested by his hon. friend, he knew not to what circumstances of a colony they were applicable, if not to those of Quebec; nor could he conceive a possible objection to the House's coming, that session, or that day, to every one of the resolutions that had been suggested by his hon friend, and giving the province a permanent Habeas Corpus Act, an House of Assembly, independent judges, and fixed and known laws. It was, he should ever contend, the serious duty of every governing country, to show its attention to the governed, and to give to the subjects all the advantages they enjoyed themselves, as far as they could do so with propriety. If ever the parliamentary phrase of "not being ripe for the discussion," was ridiculous, it was truly so then, when, after five-and-twenty years (for so long it was, since Canada came into our hands) it was to be said we were not ripe for the discussion of what was the sort of government proper for the province. The Quebec Bill, had by his hon. friend been termed "a rash and fatal measure;" but surely not in the sense in which the right hon. gentleman had used those epithets; he had made "rash" and "precipitate" synonimous, and had applied them under that construction to the Quebec Bill, which in that House deserved neither epithet, since, whatever were its other faults, it had not been brought in till eleven years after we had been in possession of the province of Canada. It was true, his Majesty's ministers were not answerable for the whole twenty-five years that had elapsed since the province of Quebec had been in our hands; but let them consider what had passed in the time previous to their coming into office, and they would not surely have the confidence to insinuate, that since they had been in office, they had not had leisure sufficient to prepare for the discussion of the present question. A declaration of this nature would amount to a confession, that they were not fit for the situation which they filled. Mr. Fox contended, that the House could have no better information before them than what was on their table, and maintained, that there was not a pretence for them to say out of doors, that they were not competent to decide on a question, which had been for fourteen years depending.

Mr. *Pitt* could not avoid acknowledging that the right hon. gentleman had at least taken an open part, since it was manifest, from the whole of his speech, that he rather wished to show his opposition to the king's government, than to evince any sincere desire to accelerate the object of the motion, or serve the cause of Canada. The right hon. gentleman had accused him with having dealt in general propositions, and said, that ministers were holding a language not to be endured. What! was it not to be endured, that he had stated his general wishes towards the establishment of a settled government in Canada, but had assigned the reasons why he was persuaded no effectual proposition for that purpose could be agitated with success that session? Ought he to be ashamed of stating that ministers sent out lord Dorchester, as soon as they could, with instructions to institute the necessary inquiries, and send home intelligence; that ministers declared they were waiting for that intelligence when the subject was last agitated; that when the returns came, they were found not to be sufficiently complete, and that more information was necessary, which there was every reason to expect, would arrive before the next session commenced? Could the right hon. gentleman say that the inhabitants of the province were generally desirous of having the English laws extended to them? Would he tell that Committee that there existed a great majority for those laws in the country? Mr. Pitt declared, that so far from this, the inhabitants of the province did not wish for the extension of British laws to Canada; but, on the con-

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trary, they deprecated any such extension, and begged to have their own laws continued in force, which they described as peculiarly applicable to commercial litigations. Lord Dorchester was sent out to ascertain these important facts. What, then, ought he to be ashamed of? With regard to the House of Assembly, it was a subject of peculiar delicacy and difficulty. Let it be recollected, that it was such an House of Assembly as scarcely ever had existed; an Assembly in which Catholics were to sit equally with Protestants, and to enjoy the same powers. Would the right hon. gentleman say, that such a matter was universally desired? If he thought it expedient to refer to arithmetic, he wished him to be a little more correct when he entered upon his calculations. He had ventured on the declaration that we had been in possession of Canada twenty-five years, and that fourteen years had elapsed since the passing of the Quebec Act. Let him remember that, since the peace, the province had changed its character most essentially, and was no longer the same Canada that it had been before. Loyalists, Englishmen, and a variety of persons had taken refuge there, and the population was not only materially increased, but the sentiments of the inhabitants, from commixture, essentially altered. Did not the province of Canada, therefore, so changed, require a very different system of government from Canada as it stood before the war? And if a fit system of government had not been hit upon since 1774, and previous to 1784, were ministers much to blame, that after having sent out lord Dorchester with instructions to collect the necessary information in the latter end of 1786, they were not prepared to propose a system of government for Canada, for the good effects of which they were ready to hold themselves responsible, in the month of May 1788? He stated the probable loss by the trifling delay, occasioned by waiting till the ensuing session, and opposed to it the certain gain, inferring that the amount of the latter so far overbalanced the former, that there ought not to exist a doubt whether the consideration of the question should be deserted.

Mr. *Fox* answered, that the fact of the province of Quebec having become more populous since the peace, proved that it was the more necessary early to give the province a settled system of government, and the more likely that its inhabitants would relish English laws. He denied that he had aimed at fixing a stigma on ministers, rather than seriously urging an early discussion of the question, reminding the Committee, that he had expressly stated, that having the information before them that was upon their table, they were competent to proceed immediately to a decision of the question, and that he knew, that a majority of the inhabitants of the province were for the English laws, and for the House of Assembly. When the House had so much authentic information before them, ministers ought to produce the counter information that they talked of, to enable them to decide by comparison which of the two was actually the most important.

Mr. *Marsham* would do his Majesty's ministers the justice to say, he did not believe there was any idea of taking away the benefit of the Habeas Corpus Act from the province of Canada; but as a member of Parliament, he must deem it his duty to declare, that he did not like any description of British subjects holding that as the will of the crown, which they ought to possess as their own right. He wished, therefore, a bill was immediately brought in to give the Canadians a permanent possession of the Habeas Corpus Act. This would operate as an assurance of farther advantage. He reminded Mr. Pitt of his argument on a preceding day, relative to the Slave Trade, when he had himself proposed, as the House could not conveniently discuss the subject, on account of the lateness of the present session, that they should, by a resolution, pledge themselves to take up the subject early in the course of the next. He therefore had the sanction of the right hon. gentleman's authority for saying, that a similar step ought to be taken with regard to the Canadians.

Mr. *Powys* said, that should his present motion unfortunately be lost, he meant to move that the House would early in the next session take the subject into their most serious consideration. The Chancellor of the Exchequer had observed, that when he brought the subject forward two years ago, he (Mr. Powys) was not prepared to state whether a house of assembly would be acceptable to the general wishes of the inhabitants of Canada or not. The right hon. gentleman was mistaken; he had only said, that he was not prepared to state in what manner the House of Assembly ought to be constituted. It was

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material to know how the instructions to lord Dorchester had been worded; because if they had not been sufficiently full, the not sending ample and adequate information was matter of blame ascribable to lord Dorchester. If not, the blame was due to the executive government. Mr. Powys held in his hand a copy of the counter-petition, written in French, from which he read an extract.

Mr. *Pitt* said, that was not the counter-petition to which he alluded. He had never seen it. The counter-petitions to which he had referred, were two transmitted through the medium of lord Dorchester. Gentlemen had asked when government would bring forward any thing? His answer was, when they could with confidence. If they could next year they would; if not they would not. He should not hold himself pledged to proceed next session, if the necessary information should not be then arrived.

Mr. *Sheridan* expressed his fears that the Committee would not gain a great deal by waiting for information. The inhabitants of Canada were unanimous in favour of the objects stated by the hon. mover. When the petition came away there was not one dissenting voice. The fact was, that before, a false alarm had gone abroad, and some persons had been panic-struck, thinking that English laws were to be introduced generally, and without any exception; upon that the counter-petitions had been presented to lord Dorchester. But the cause of alarm had since been explained, and the inhabitants of all descriptions had recovered from their panic. Two years ago the right hon. gentleman had said, "Be patient, sir Guy Carleton is gone out for information; when he returns the subject shall be submitted to a full discussion." The right hon gentleman had received from sir Guy Carleton, (at present lord Dorchester) all the information he could recieve, and therefore he ought no longer to delay the consideration of the question.

Mr. *Pitt* begged leave to contradict the hon. gentleman's assertion. He not only had reason to expect, but he actually did expect much farther information, through the medium of lord Dorchester.

Mr. *Sheridan*. Will the right hon. gentleman produce lord Dorchester's dispatches to prove the fact? I dare him to the proof.

Mr. *Pitt* said, he would oppose the production of any such proof. The hon. gentleman had introduced a new species of argument in that House. If that mode of argument prevailed, it would only be for a confident man to come forward boldly, and make a direct assertion, and on receiving a peremptory denial to challenge the production of private papers as the test of the fact in dispute.

Alderman *Watson* said, that he had always opposed the Quebec Bill, as containing a weak and inadequate system of government, by no means adapted to the province of Canada. The people of that province had been shifted from one system of bad government to another, and bad laws had been as badly administered. He contended, that nothing could have been worse conducted than the government of Canada, ever since the province had been in our possession. He spoke of the character of lord Dorchester in terms of panegyric, but said, the happiness and permanent security of a whole province, in respect to liberty and property, and all civil rights, ought not to rest on the frailty of an individual life, however well acquainted the individual might be with the people of the province, their manners and customs and interests, or however deservedly popular among them. The Habeas Corpus Act, and all the blessings of British laws ought to be secured to the inhabitants, and so far from there being any thing like justifiable ground for greater delay, the Canadians had grievous cause of complaint for the procrastination that had already taken place.

Mr. *Martin* expressed his astonishment at Mr. Pitt's declaration, that ministers still wanted information on the subject, and were not prepared to settle a form of government for Canada. We had been in possession of the province 25 years, and although the right hon. gentleman had not been at the head of government above four years, yet surely after the country had felt the benefits of twenty-one years experience, it was much easier to settle a fit form of government for the province of Canada in four years, than it could have been to settle the first form of government that this country sent out in 1774, after having possessed the province eleven years. He was old enough to have had a seat in that House during all the discussions on the subject, and he had been one of those that opposed the Bill of 1775, as founded in despotism and oppression. He had contended then, that British subjects, wherever settled, had a right to enjoy all the

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blessings of British laws. He understood it to be admitted on all hands, that although it was too late in the session to go into an immediate inquiry, in order to give the inhabitants of Canada the benefit of British laws, to as great an extent as should be practicable, yet that it ought to be instituted early in the next session. There was one point in which he conceived not a week need be lost, and that was in respect to the Habeas Corpus Act, which the Quebec Bill, as it was called, had suspended. Gentlemen were agreed in that point, therefore why not bring in a short bill immediately to confirm the inhabitants of Canada, in their repossession of that Act. He knew they now enjoyed it by virtue of an ordinance issued at the command of the Crown; but though he had not the smallest suspicion that ministers would put a stop to the operation of that ordinance, and take away the Habeas Corpus from the Canadians, yet he wished all British subjects, of every description, to enjoy the Habeas Corpus, as we did in England, as a matter of right, and not as a grant at the will of the Crown. Nothing could in his mind be more illiberal or unjust, than to deprive any set of men whatever of the right of exercising civil offices, and sharing in the honours and emoluments of civil situations, merely on account of their religious notions and persuasions.

Sir *James Johnstone* said, it was highly necessary that a form of government should be settled for the province of Canada. In 1764, they had received the pledge of the royal word, that as soon as circumstances would admit, the blessings of the British laws should be extended to them. They had done nothing since to forfeit their claim to the performance of that promise; and yet in 1774 the Quebec Bill passed, and gave them a form of government that by no means adopted the British laws. The evils of that system had been loudly complained of, and it was high time another system should be established in its stead. The inhabitants of Canada amounted to 140,000 in number, 20,000 of whom were Protestants, and the rest either Canadians, natives, or French, all of them Catholics. It required therefore a good deal of care in settling, for which reason he should vote for the Chairman's leaving the chair, and afterwards for the resolution to take up the subject early in the next session. He said, he could not sufficiently admire those noble sentiments of the hon. gentleman who had spoken last, that no man ought to be set aside from the exercise of his natural rights, on account of ecclesiastical reasons, or, because he thought for himself which was the best road to heaven. If a man was a good subject, no person had a right to control him in the choice of his religion.

Mr. *Lorraine Smith* expressed a wish, that the hon. gentleman who made the motion would withdraw it, and move the question which he intended to make when the House was resumed in the Committee; because, if the House suffered it to go forth, that a motion had been made in favour of establishing a form of government for Canada, and had been rejected, no matter on what grounds or in what way, it would lead the inhabitants of Canada to imagine, that the House had refused to grant any form of government to that province. Whereas, if the motion was withdrawn, and a resolution come to in the Committee, that the House would early in the next session proceed to take the matter into their most serious consideration, it would hold out an assurance that the House were in earnest, and that they had proceeded as far as the period of the session would permit. Mr. Smith urged the necessity of providing a form of government for Canada, and that with as little delay as possible; to prove which, he stated, that during the late war, the Canadians had shown an inclination to revolt, and again put themselves under the hands of their old masters. The reason of this was obvious. French laws prevailed in Canada at present, under which the inhabitants had always lived. They had been told, and that by authority, five-and-twenty years ago, that the English laws should be extended to them. That promise had not been kept, and therefore no alteration having been made in the essential forms of their government in so many years, it was natural for them to have abandoned all hope of alteration, and to desire to be put under their own old governors. The best way therefore, to wean them from the national prejudice in question, would be to grant them the English constitution.

Mr. *Burke* said, that he rose under some degree of terror to oppose the motion, that the chairman do leave the chair; because, having seen the manner in which the Chancellor of the Exchequer had treated other hon. gentlemen who had spoken before him on the same side of the question, he knew not what he was to expect for having the confidence and the

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impudence to support them in their arguments. The right hon. gentleman, Mr. Burke said, was not a member of the House, nor had he commenced his political career, when the Quebec Bill had been brought in and debated; but throughout those debates, he (Mr. Burke) had been one of its most steady opposers, and had predicted, that the consequences it would produce would be nearly what they had turned out to be. He knew not whether we were not, in a great measure, to ascribe to that Bill much of the mischief that followed it, the American war and the loss of the colonies, since it held out to all our provinces what sort of government was most wished to be established in America by some of those in power here. It was a measure dealt out by this country in its anger, under the impulse of a passion that ill suited the purposes of wise legislation. The Quebec Act had been loudly complained of, as containing a system of government ill adapted to the province of Canada; and it was now, he believed, universally agreed that it was so. Why, then, let that Act remain unrepealed? Why not proceed to repeal it instantly, even if it could not with convenience be immediately followed up with the establishment of a new and better system of government? The right hon. gentleman had intimated, that he stood in want of more information, and that they were not ripe to proceed to inquire into and discuss the subject. Not ripe after twenty-five years experience! Nay, the right hon. gentleman had gone farther, and declared, that possibly they might not have sufficient information before them, and not be ripe enough for the discussion next session. He might go on in that manner, making the same objection year after year, so that most probably by far the greater part of that House would be rotten before they were "ripe." The right hon. gentleman put him in mind of that philosopher, whose mother wanted him to marry; and upon her asking him to take a wife, his answer was "he was too young." A few years elapsed, and the matron, anxious for a progeny to keep up the family, again solicited her son to wed; his answer again was, "he was too young." More years elapsed, and the old woman asked him a third time to take a wife, when the philosopher answered, "he was too old." So the right hon. gentleman might go on, year after year, till the opportunity of establishing a new form of government over Canada would have escaped. The right hon gentleman had made a fine dissertation on the beauty of the British constitution; he had praised it highly, and had declared himself extremely desirous to communicate its blessings to all parts of the world, but he had followed up his encomiums with a declaration of delay. Thus had he at length accomplished that happy perfection of political refinement that could express one sort of desires, and unite them with an opposite species of practice. Who, before the right hon. gentleman, had been able to hold popular language at the same time that he held possession of power? To join a theoretical recommendation of action with an effectual exercise of practical delay? Mr. Burke said, he wished to relieve the minister from his difficulty and his dilemma, by persuading him to carry his professed wishes into immediate performance. The right hon. gentleman had said, he above all things thought an house of assembly a blessing fit to be given to Canada, but that it might not be given them, because it was notorious that the province of Canada was then distracted with the differences of opinion that prevailed in it, as to the best mode of establishing laws of commerce. So far from admitting that proposition to be well founded, Mr. Burke declared, it operated in his mind directly the other way, and was of itself a strong argument for the immediate institution of an house of assembly. If there were a great variety of discordant opinions aflost in Canada, on the subject of the sort of laws most applicable to the mercantile concerns of the province, it was highly necessary that there should be some organ created in Canada, to speak by authority what the opinions were, and which of them was most prevalent, and merited the greatest share of attention. The present was the proper time, at least, to proceed as far as his hon friend had declared it to be his intention to proceed. From what the right hon. gentleman had said, how were they sure the House would next year be able to get a step farther than they had done that day? With ample information before them in the petitions on their table, with that information supported and strengthened by oral evidence delivered at their bar, why were they not ripe to proceed? Was it because the right hon gentleman had talked of counter-petitions, which he would not let them see? Next year, the

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same scene might be repeated, and the same plea of want of information urged. What must the gentlemen who had felt it to be their duty to agitate the question relative to the Slave Trade, and by so doing had awakened the humanity of the whole nation, think of the right hon. gentleman's declaration that day, that he would not be pledged by the resolution to go into the discussion? The resolution moved by the right hon. gentleman himself, on the preceding Friday, relative to the Slave Trade, must stand precisely on the same grounds with the resolution which his hon. friend had declared it to be his intention to move as soon as the House should be resumed. Was the right hon. gentleman desirous that the people of England, who had petitioned the House to take the state of the Slave Trade into their consideration, should understand that the resolution which the House had come to meant nothing, and that next session their wishes might be defeated, and the subject be put off again? He advised the right hon. gentleman to think seriously of the inference that the public would draw from such equivocal conduct.

Sir *W. Dolben* wished that a proper system of government might be settled, as soon as convenient, for the province of Canada, but thought the Chancellor of the Exchequer had stated sufficient reasons to induce the Committee to postpone the consideration of the subject till next session. He thought this delay more likely to be attended with good than evil, and as to any intention in ministers to take away the benefit of the Habeas Corpus from the Canadians in the interim, he did not see ground for the slightest suspicion of such an intention.

Mr. *Fox* said, that he perfectly understood the way in which the worthy baronet conceived the Chancellor of the Exchequer to have meant what he had said, and were that really the case, and the right hon. gentleman was sincere in meaning that the matter should be effectually discussed next session, would remain contented; but the right hon. gentleman had, in fact, said no such thing; all that he had said amounting to nothing, and for ought the Committee knew, they might not be permitted to go into the effectual discussion of the subject, with a view to settle a form of government for Canada, for ten years to come. The right hon. gentleman's fair and candid declaration, that although he had no objection to the resolution that would be proposed, of taking the matter into consideration next session, yet that he did not hold himself pledged then to go into it, if he should not, by that time, have received what he should deem sufficient information, to enable ministers to make up their minds upon it, was clearly and plainly declaring to that Committee and to the public "We have come to a resolution, but we mean nothing by it." In order to prove this, Mr. Fox asked, what in fact would be the whole of the effect of the resolution, under the explanation of the right hon. gentleman, that he desired not to be understood as considering himself to be pledged by it; was it any thing more than obliging the House, as it were to recognize the subject, and bring it in early in the next session? Was there any necessity for the House to come to a resolution, in order to produce that effect? Undoubtedly there was not; because he and every private individual member could by a motion force the House to do as much. When the House came to a resolution of their intention to take a matter into their serious consideration, early in a subsequent session, what was their meaning? Most obviously not to hold out an empty delusion to the public, but to give them an assurance, that, in the next session, they would go into a full consideration of the subject, and either determine to take such steps as should appear to the wisdom of the House to be necessary, or to let it alone altogether, if that should upon mature discussion appear most proper. He desired to know if every man who had voted for the resolution relative to the Slave Trade had not given his vote, under the idea that the subject was to be gone into fully next session, and some decision come to? On that occasion the right hon. gentleman had not thought proper to accompany his argument with any such explanation as he had that day given; and he was wise in avoiding so to do, because the right hon. gentleman well knew the people who had petitioned would not have borne such a fallacious mode of conduct, which held out to them hopes on which they could place no reliance. Mr. Fox contended, that if the practice was adopted of coming to positive and express resolutions, accompanied at the time with explanations, on the part of the minister, that rendered those resolutions perfectly nugatory and insignificant, that House would lose the confidence of the

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people, and they would obtain the character of being the most paltry, prevaricating, false, equivocal, and delusive House of Commons that ever sat within those walls.

Mr. *Pitt* contended, that the right hon. gentleman had endeavoured again and again to cavil at his declaration, that he begged not to be considered as pledged to any specific point next session, other than the consenting to resume the consideration of the question, and to hold that declaration out to the Committee, as a reserve of the right of doing nothing next session upon the subject. It was a little extraordinary, after he had so fully explained his meaning, that the right hon. gentleman should persist in misrepresenting his declaration. He had once more stated, that ministers had not before them sufficient information to enable them to make up their minds, as to what ought to be the measure proposed by them to the House, on a subject confessedly of great delicacy and importance, and therefore he felt it his duty to desire the Committee to defer its consideration till next session. He had reason to expect farther information from lord Dorchester and in all likelihood it would arrive before next session, and then the House would have the subject fully before them. But suppose that not to be the case, and that the farther information should not arrive; would not the House be obliged to resume the consideration? Would they not then have all the information ministers had received submitted to them; and would they not be thereby enabled to form a judgment, whether it would or would not be proper to proceed farther, before they had obtained more information? With regard to the Slave Trade, nothing the right hon. gentleman had said, or could say, no attempt to excite a clamour, no warmth nor affectation of feeling, should induce him to advance a syllable on the subject, beyond the extent to which he had thought it right to go on Friday. In the state of the session, and under the circumstances of the case, he had deemed it advisable to postpone the discussion of the subject till next session, when the House had resolved to enter upon it; but, notwithstanding the use which the right hon. gentleman had endeavoured to make of his having, to prevent the possibility of mistake declared, that if, next session, he should feel that ministers were not then in possession of all the information which they should think it their duty to have before them, on the subject of what was the fit and most proper form of government for Canada, he would still advise the House to wait for farther information, and then to decide accordingly. For, what would the House have to do upon the subject next session? First, to judge from the information that should be before them, what would be most advisable to be done; next, when it would be most advisable to do it; thirdly, how it would be most advisable to carry it into effectual execution; and lastly, whether it would be more advisable to do nothing, but let the matter remain where it was. Each of these considerations would be necessary objects of discussion, and would any man say, that objects so essential ought to be prejudged or predetermined? It would be an insult to the understanding of mankind, to urge any such pretence. Mr. Pitt said, he had considered the subject of the Slave Trade much more minutely than the right hon. gentleman, and had dedicated more hours to its examination. He trusted, therefore, that he understood the subject fully, and being perfectly aware that it was one of the most delicate and important that ever called for the attention of parliament, he wished it to be brought under discussion with all the advantage of the House having complete information before them respecting the propositions that it might be deemed expedient to submit to their consideration.

Mr. *Fox* expressed his satisfaction at having gained somewhat by what he had last said, although at the same time what he had gained was not much. The right hon. gentleman had thought proper to go one step farther in his last speech than he had gone before. He had in that speech said, that, at any rate, whether or not he received the information he expected against last session, the House would be bound by the resolution to be moved by his hon. friend, to resume the consideration of the subject; that they would then have all the information that government were in possession of stated to them, and would be thence enabled to judge, whether it was proper to proceed, or to wait for still farther information. This was certainly something, though not a great deal; because, as he had before contended, it was in the power of any individual to force the House to agitate the subject, and having once brought it under discussion, the House could not avoid coming to some decision or other. It was evident that the

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right hon. gentleman was exceedingly sore, or he never would have resorted to so unwarrantable a mode of argument, as the declaring that he understood the subject of the Slave Trade much better than he (Mr. Fox) did, and that he had dedicated more hours to the examination of it. Of his own industry, undoubtedly the right hon. gentleman could speak with confidence; but how he was enabled to judge of the degree of industry that he (Mr. Fox) possessed, or of the attention that he had paid to the subject, or of the number of hours that he had dedicated to the examination of it, he was at a loss to imagine. He did not much suspect that there were many persons about him that were spies upon his actions, and he presumed that he had at least as many leisure hours as the right hon. gentleman. The right hon. gentleman had declared that no clamour or affectation of warmth should make him go one step beyond the line he had, on Friday last, prescribed on the subject of the Slave Trade. How far affectation of warmth made part of his character, Mr. Fox said he would leave the Committee to judge, as well as of the degree in which affectation of warmth was imputable to the right hon. gentleman; but he should still adhere to the argument, that the resolution of Friday last, relative to the Slave Trade, stood precisely on the same ground that the resolution about to be proposed would stand.

The Committee divided on the question, That the Chairman do leave the chair: Yeas, 104; Noes, 39. The House being resumed, it was resolved *nem. con.* "That this House will, early in the next session of parliament, proceed to take into consideration the matters of the said petitions, and what may be fit to be done thereupon."

Debate on the Expences attending the Trial of Mr. Hastings.] May 20. Mr. *Burges* being called upon from all sides of the House, rose and observed, that when for the purpose of information solely, he had moved some few days since, for an account of the charges incurred by the trial of Mr. Hastings, he little imagined he should have had occasion to make a second motion upon the subject, but the account that had been laid upon the table consisted merely of four or five general heads, and in fact, afforded no sort of satisfactory information. It was intituled indeed "A particular Account," but its particularity consisted in its giving no particulars at all; he was under the necessity, therefore, of moving for a more particular account; but when he did so, he wished it to be understood, that he did not move it for the purpose of grounding any censure whatever, nor did he mean to insinuate any charge or suspicion against the managers, of having exceeded their bounds or done wrong in any shape whatever. He then moved, "That there be laid before this House, a particular account of the expenditure of the money advanced to Messrs. Wallis and Troward, solicitors for the prosecution against Warren Hastings, esq. and of such other expenses and charges as have been incurred by the said solicitors on account of the said prosecution, to the 15th of May 1788, inclusive, stating specifically to whom and on what account such sums have been issued."

Sir. *W. Dolben* said, that as the motion related to a matter of great public importance, and as it was expressly stated, that it was not made with a view to censure any past transaction, but rather to excite caution in respect to the future, he begged leave to second it.

Mr. *M. A. Taylor* having declared himself astonished, that after so much preparation a more serious motion had not been introduced, added, that he considered the motion as an indirect mode of conveying a censure on the conduct of the managers, and brought forward with a view to lead to an attempt to put an end to the prosecution. If it was made with any such intention, he wished those who were desirous of putting an end to the prosecution, would, in a manly way, avow their purpose. The House would then have the proposition fairly before them, and would know in what manner they ought to decide upon it. With regard to the account moved for, he cared not how minutely the particulars were stated, nor what inquiry was grounded upon it. He knew a great many false rumours were in circulation with a view to load the committee of managers with every possible degree of odium. He, as one of the managers, had been gravely told in public company, that he dined every day in the most sumptuous manner at the expense of his constituents. He declared he knew of no such dinners, and he wished the public to rest assured, that there was not the smallest ground for any such idle report. He had taken a part in the prosecution from a consciousness of the criminality of Mr. Hastings, and he was determined to persevere in endeavouring to

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bring him to justice under every difficulty that could be thrown in his way. With regard to the expenses incurred, they were trivial, and not worth mentioning, in comparison with the greatness of the object to be attained. That part of them which related to the sums paid to council, for their assistance, were so far from being enormously large, that they were, on the contrary, shamefully inadequate to the services performed; he never knew counsel so ill paid for such services; and when he made that declaration, he begged the House to consider him as speaking to a subject, of which he had some knowledge from experience.

Mr. *Sheridan* observed, that he felt some difficulty to avoid being astonished, that the hon. manager should have thought the hon. gentleman's anxious desire to watch over and scrutinize the expenses of the prosecution of Mr. Hastings, matter of amazement, when it was considered how frequently the hon. gentleman attended to the expenditure of the public money, and how peculiarly watchful he was over the grants of large sums moved from time to time by the Treasury! He considered the true motive of the hon. gentleman to be no other than this; he had made his motion with a view to afford a ground for the appearance of idle paragraphs in the newspapers, insinuating that the managers were putting the public to an enormous and unnecessary expense, and by that means to create a wish in the public for the total discontinuance of the trial. The services already performed were ordered by the committee of managers, under the authority of that House. If the House chose, they might resolve that no counsel should, in future, be allowed the managers; if so, it would be necessary for them to move, that the attorney and solicitor-general, together with the master of the rolls, be added to the committee of managers. Or, if the House thought proper, they might resolve, that the managers should pay the expenses of counsel themselves. In that case he hoped the House would have the goodness to add sir Sampson Gideon, and some others of the most wealthy members to the committee. With regard to the charges incurred by fees to counsel, it was considering the assistance afforded, shamefully low; so much so, that he would venture to say no counsel employed in a great public prosecution had ever been so ill paid before. He read from the votes the resolution to pay above 4000*l.* for defraying the charges incurred by the prosecution carried on against sir Thomas Rumbold. He said, he had no doubt but that charge had been fairly and justly made out, but he had never heard, that the House had thought it necessary to institute a minute inquiry into the various items of the account. In the present prosecution, the managers were responsible for ordering the services, but the manner in which those services were performed, was to be decided on elsewhere; and therefore, as that part of the business which was the only one the hon. gentleman could refer to, lay between the solicitors for the prosecution, and the lords of the Treasury, the hon. gentleman instead of giving the newspapers a fresh subject for unwarrantable insinuations, if he meant any thing by his motion, would, he hoped, when the account should be produced, ground upon it another motion, that the counsel employed by the committee of managers should in future be better paid.

Mr. *Hussey* wished to have it understood, whether the managers were responsible for the charges incurred by the prosecution or not.

Mr. *Fox* answered, that the managers were, undoubtedly, responsible for the services ordered, but not for the manner in which those services were performed. It lay with the Treasury to examine, check, and control, the expenditure of the money issued to defray the charges incurred by the prosecution. The managers had the authority of that House to take such measures, and do every thing that appeared to them to be necessary to conduct the prosecution in the most effectual manner; but, even in the exercise of the powers given them by that authority, they were very ready to pay great deference to the advice of those, who, from their situations, must necessarily have great weight and authority in that House.

Mr. *Pitt* said, that the managers certainly were authorized to order any services which they thought necessary, and it was not in the power of the Treasury to countermand those services, their province being merely to take care that the charges for those services were not enormous and unreasonable. In order to do this, when the proper time came for the solicitors to the prosecution to state the particular items of their accounts, they certainly would take the best means in their power, by referring the accounts to

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the examination of the solicitors of the Treasury, to prevent the public from being overcharged. At present the House would recollect, that the sums issued were issued on account merely, and therefore such a reference and examination of particulars could not take place. He thought it right that the House should have the account moved for, because if they should be of opinion that any of the services ordered already were unnecessary, they would have it in their power to direct that no more such services should take place in future, and that the House would see was a power which rested with themselves only, and which the board of treasury could not exercise. With respect to the charges already incurred, he was far from meaning to suggest that any unnecessary services had been ordered, or that any expense could be too great to be incurred, that was really likely to conduce to the object in question.

Mr. *Fox* said, the right hon. gentleman had taken what he conceived to be precisely the fair distinction, and therefore, in his mind, the House had before them already the only account that was necessary for them to look to, an account of the services ordered. A more minute account could only be an account of the particulars of the manner in which those services had been performed, which was the sort of account that must ultimately be submitted to the Board of Treasury for their investigation. Mr. Fox said, he never was more surprised, than at the smallness of the amount of the expenses incurred.

Mr. *Burke* declared, that as far as regarded himself, he had not the smallest objection to every minute item of the charges incurred by the prosecution being made as public as possible, but there were grounds of argument extremely forcible and extremely obvious, that would prove the present motion to be in the highest degree improper and unwise. The House had solemnly determined, that Mr. Hastings should be impeached, they had appointed a Committee of managers, and armed them with a variety of powers, above all, directing them to act as a Secret Committee, and now in the progress of that very proceeding which they were to conduct in the manner that, upon secret consultation, should appear to them most advisable, was the House about to demand a public disclosure of all the private grounds of their conduct. Such a measure, he would venture to say, was unprecedented, and in no great public prosecution had such a measure ever been attempted or dreamt of. With regard to the charges already incurred, his private opinion was, that the cause had been starved. So far from any unnecessary expense having been gone into, he was persuaded much use might have resulted from still greater expenses, had the Committee thought the circumstances that characterised the prosecution such as would have rendered it prudent in them to have incurred greater expenses. He reminded gentlemen of the particular constitution, temper, and sentiments of the House in regard to the prosecution. A large and indeed a most decided and respectable majority of the House had voted the impeachment, and voted a committee of managers with great powers, but not greater than were absolutely necessary to render the prosecution effectual. But there was notoriously a considerable Indian party in the House, friends of Mr. Hastings, and many of them acting upon motives of personal interest, who had shown themselves adverse to the prosecution. He was far from meaning to insinuate that they might not have been adverse to the prosecution from motives perfectly honourable, but the fact was as he had stated it. There was another set of gentlemen who had voted against the prosecution on principle, and because they thought such a prosecution, under all the circumstances, ought not to have taken place. This latter description of gentlemen certainly were to be respected. But such being the known divisions of the House, it behoved the managers to act with extreme caution, and to take care so to conduct themselves as not to give just cause of offence, or of solid objection, to either of the parties alluded to. This had been their rule, and had it not rigidly been adhered to, much larger expenses might have been incurred, and incurred usefully to the prosecution. Secret services, for instance, might have made a large head of expense, and if gentlemen gave themselves time for reflection, they would see that in a prosecution of the nature of that in question, there might be much occasion for secret services. Mr. Burke animadverted on sir W. Dolben's having ventured to second a motion, with the true grounds of which he could not possibly be acquainted. The charge incurred was enormous or inconsiderable,

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in proportion to the greatness or littleness of the services performed. They only who had directed them, and saw the degree of effect they had operated, could alone judge of their importance. The Committee having the business in their hands, knew them to be great, and knew the charges incurred to be proportionably trifling and inconsiderable. The Committee were responsible for those services, or rather he was responsible, as the leading member of that Committee, and he meant not, in the smallest degree, to shrink from his responsibility or shelter himself behind the Committee, for conduct undoubtedly his own, and for which he was and ought to be peculiarly responsible. The hon. baronet had said, he seconded the motion, because it was not moved with a view to censure of the past, but of caution for the future. If it was necessary to give caution for the future, there must have arisen some occasion for that caution, which implied, that the Committee of managers had acted in a manner in which they ought not to have acted. For his part, he rejected the proffered caution. He would take no more caution than he had done. He acted to the best of his judgment, and he was conscious that he was responsible for his conduct.

Mr. *Hussey* saw no reason for the motion. Was 8,000*l.* too much, considering the importance of the prosecution? He had heard no suspicion of lavish or improvident conduct in the Committee of managers insinuated. When the business was at an end, he should expect the money issued to be strictly accounted for, but not before.

Mr. *Fox* said, the House would recollect, that no ground had been stated for the motion, but that, on the contrary, all intention to ground a censure was disavowed. From what motive, therefore, were they to suppose the hon. gentleman made his motion? It was not possible for the House to adopt it, in its present unexplained state, without pursuing a conduct of which not one of its past proceedings could furnish an example.

Mr. *Burges* said, that the motive that induced him to make the motion was, a desire to obtain information. He had expressly stated, that he did not make the motion in order to ground a censure against the Committee of managers, or any person whatever. How was it possible for him to declare that they merited censure or deserved approbation, without having sufficient information before him to enable him to judge whether they deserved either? He had no scruple to say, that he had his doubts whether one part of the general charge, namely, the sums expended by the solicitors for the prosecution, did not amount to more than ought to have been so expended. When a particular account should be before the House, if it should appear to him that censure was merited, the right hon. gentleman opposite should not find him shrink from the question; nor should any thing that any member might say intimidate him from doing what he might think to be his duty.

Mr. *Burke* declared, that he did not mean to intimidate the hon. gentleman by any thing he had said, and that he was perfectly indifferent, as far as concerned himself, as to any future proceeding that might be grounded on the account moved for; but he could not help remarking upon the extraordinary circumstance of the professed friend of Mr. Hastings calling for an account of the expense incurred by the prosecution, at the very moment that one of the strongest charges was so closely griping the delinquent, that he saw it impossible for him to escape. He had no objection personally to the production of the account, but he warned the House, that they were about to establish a precedent full of danger, and likely to cover him with much disgrace.

Sir *Peter Burrell* wished to be informed whether the hon. member desired to have a strict account of every particle of the expense laid before the House. If this was the case, he thought it highly dangerous to the prosecution, to disclose to the defendant all the proceedings of his prosecutors. Doubtless, at the conclusion of the prosecution, a full statement of every expenditure on account of it ought to be rendered, but he was sure there was no precedent to be found for producing a detail of particular charges pending the prosecution.

Mr. *Pitt* observed, that if any gentleman would really say, he apprehended danger to the cause from producing the account moved for, he would strenuously oppose the motion, because he thought that a consideration infinitely beyond any advantage that could result from laying the paper on the table. But, if no danger nor material inconvenience could be stated as likely to result from producing the

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account, he thought it for the honour of the House and the honour of the managers, to produce it; as it would, in fact, if it turned out to be as gentlemen had described, and which he had no reason to doubt it would turn out, prove the best and most complete answer to all idle reports, and effectually prevent the repetition of any similar motions.

Mr. *Fox* certainly saw no immediate danger in producing the account then moved for, but what struck him as the matter to be guarded against was the establishing a precedent that might be mischievous in future. He reminded the House, that no particular article in the general account on the table had been objected to.

Mr. *Burke* was desirous of calling the solicitors for the prosecution to the bar, to explain one or two points that he was sure would satisfy the House. The characters of the solicitors were such as to place them above all suspicion of being capable of acting dishonourably.

Mr. *Pitt* said, it was the undoubted right of every member of that House to call for an account of the public expenditure in every instance, and such account ought to be granted, where neither danger nor inconvenience could be stated as likely to result from inquiry,

Mr. *Sheridan* said, he would take down Mr. Pitt's declaration, that it was the undoubted right of every member to call for an account of the public expenditure in every instance, and that such accounts ought to be granted, in order to make use of it on a future day.

Mr. *Pitt* desired the hon. gentleman would also take down the condition of their being granted; which was, that neither inconvenience nor danger could be stated as likely to result from inquiry.

Mr. *Burke* remarked, that however the motion might prove inconvenient, and entail disgrace on the House, he was sure it would ultimately reflect honour on the managers, as it would prove, that for a most insignificant expense, they had by their exertions, rendered their country important and essential services.

The House divided:

	Tellers	
Yeas	Mr. Burges Sir William Dolben	60
Noes	Mr. Hussey Mr. William Smith	17

So it was resolved in the affirmative. The managers withdrew without dividing.

May 30. Mr. *Fox* observed, that as a particular account of the distributions of the sums expended, in consequence of the trial of Warren Hastings esq. had been before the House for some days, he wished to know when the hon. gentleman who moved for the account, and said he had doubts relative to a part of the general heads stated in the account, meant either to bring forward the said doubts, or declare whether they still left upon his mind the same impression.

Mr. *Burges* answered, that in his humble opinion, he had sufficiently done his duty in calling for the papers. They were now before the House, and an opportunity was open to every gentleman to form his sentiments upon the subject. What his doubts were, he imagined must suggest themselves to every gentleman who read the accounts, and therefore he left to persons, who had more weight and authority in that House than he had, to take the matter up; but if no other person should, and the House should call upon him to bring the subject forward, he was perfectly ready to obey their commands.

Mr. *Sheridan* observed, that the sort of way in which the matter had been treated, was a little extraordinary. The hon. gentleman had, on a former day, said, that he had his doubts upon one of the heads of the general account, but that he could not say whether those doubts were well founded or not, before he saw a more particular statement of the items; that particular statement had now been presented some days, and the hon. gentleman had just declared, he still entertained his doubts, but that he left it to other gentlemen to move the discussion. Now he wished the hon. gentleman would either act upon his doubts, or get some other gentleman to take his doubts up for him, and act upon them. From what had already passed, the matter ought not to drop without a farther investigation.

Mr. *Burges* said that if the House thought that it was now more peculiarly his province to bring the subject forward, he had not the smallest objection to take the task upon him, and in that case, he believed the proper way would be either to move that the papers be referred to a Committee of the whole House; or to give notice of a day on which he would state his sentiments upon their contents.—Mr. Pitt recommending the latter mode, Mr. Burges gave notice for the ensuing Friday.

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June 6. Mr. *Burges* rose. He observed, that he wished, if possible, to satisfy the call of a right hon gentleman, who, on a former day, had desired him to state his doubts respecting the articles in the account of the expenses incurred by the trial of Warren Hastings, esq. He repeated the circumstances that had led to such a call having been made upon him, and then proceeded to explain what his doubts were. The first of them he stated to be a doubt whether the House had authorized the managers to employ counsel; a doubt whether there was any precedent for their employing counsel; and, in case the House had not authorized them to employ counsel, and that there was no precedent for it, a doubt whether there was any peculiar circumstance of difficulty in the nature of the present prosecution, that made the assistance of counsel necessary. Mr. Burges argued these doubts separately and distinctly. He said, it would not, he should suppose, be denied that the House had not given any authority to the managers for the employment of counsel, and he could not find any precedent for the assistance of counsel having been either required or granted in such prosecutions. At the same time he conceived, it was not one of those sort of prosecutions, that required the special assistance of counsel. Only two legal points had yet arisen in the progress of the cause, that of the guarantee, and that of the year 1783. Whatever legal difficulties might offer, there were learned gentlemen enough on the Committee of managers to solve every doubt. He proceeded to state his doubts on the difference between the two bills that had been delivered to the House by the solicitors for the prosecution at different periods, and pointed out the particulars in which that difference consisted. These were in the total amounts, and the charges on account of sums paid to counsel, and the charge of the solicitors' expenses. He dwelt on these differences, reasoning upon each, and declaring that it struck him, as if two more counsel had made a part of the clause in the first bill, than in the second, since, in the second, a sum equal to the difference was transferred from the charge of money paid to counsel, to the charge of expenses incurred by the solicitors. He went into calculations to show, that the sum divided different ways would warrant the supposition of a different number of counsel being employed. He said, that 8058*l.* was not the whole of the expense incurred; but that, in fact, it amounted to full 15,000*l.* at present, and with the fees of the clerks of the two Houses, &c. it would amount to 18,000*l.* before the session closed. He concluded with moving, "That Messrs. Wallis and Troward, solicitors for the Impeachment against Warren Hastings, esq. do lay before this House, on the first day of every month during the continuance of the said impeachment (if this House shall then be sitting, otherwise on the first day this House shall sit after every such first day of the month) a particular account of such expenses and charges as shall have been incurred by the said solicitors, as may have occurred subsequent to any account by them previously delivered to this House stating specifically to whom, and on what account, such sums shall have been paid."

Mr. *Burke* said, that he rose neither to second nor to resist the motion. Before he seconded, he must approve a motion; before he opposed it, he must feel a strong reason for meeting it with his negative. In the present case he felt no powerful propensity either way. He could not however avoid offering his warmest congratulations to the hon. gentleman on his having chosen that glorious day, after the triumph of the morning, to bring forward a business of such an important nature! It was the hon. gentleman's choice of filling up the happy interval between their adjournment from Westminster-hall and the rising of the House, with calling them to the examination of the items of a solicitor's bill, which alone was fit to follow his first onset within those walls, when he had stood up, and boldly ventured for a long time, singly and unseconded, to call for the attention of the House, after every other member had been struck dumb with astonishment and admiration at the wonderful eloquence of his hon. friend (Mr. Sheridan) who had that day again surprised the thousands who hung with rapture on his accents, by such a display of talents as were unparalleled in the annals of oratory, and as did the highest honour to himself, to that House, and to his country. For his part, Mr. Burke added, his mind was not sufficiently let down from the height of exaltation to which it had been raised: it required a degree of bending, of wetting, and of relaxation, to sink his thoughts to the level of such an inquiry as that to which the hon. gentleman had called their attention. After such a sublime and

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glorious feast as the morning had afforded, the hon. gentleman's curious speculation on minute particulars convinced him that Providence had intended that man should not be proud, but that ecstacy of the mind should be checked and cooled by some sudden concomitant of mortification and disgrace, so that, under any circumstances, it should be impossible for a human being to escape long from having some proof of natural infirmity thrust before his sight. He again congratulated the hon. gentleman, therefore, on his choice of a day, declaring, that if ever there was a day made to dignify the nation, made to dignify human nature itself, it was that very day. Of all species of oratory, of every kind of eloquence that had been heard, either in ancient or in modern times; whatever the acuteness of the bar, the dignity of the senate, or the morality of the pulpit, could furnish, had not been equal to what that House had that day heard in Westminster-hall. No holy religionist, no man of any description as a literary character, could have come up, in the one instance, to the pure sentiments of morality, or in the other, to the variety of knowledge, force of imagination, propriety and vivacity of allusion, beauty and elegance of diction, and strength of expression, to which they had all that day listened. From poetry up to eloquence, there was not a species of composition of which a complete and perfect specimen might not have been culled, from one part or the other of the speech to which he alluded, and which, he was persuaded, had made too strong an impression on the minds of that House to be so soon obliterated, as to render such a coarse dish of soups as the hon. gentleman had set before them, at all palatable. There was, Mr. Burke added, no conquest of man over man, like that of genius over injustice; instead, therefore, of resolving themselves into a committee of petit accounts, they ought, like the Romans, after Scipio's victories, to go and thank the gods for that day's triumph. In conclusion, Mr. Burke declared that he disdained to take notice of such a subject as the hon. gentleman had stated to the House. If the hon. gentleman doubted, or any man doubted, the solicitor's charges, let them call the solicitors to the bar, and examine them. For his part, he would continue to order such services as he thought proper, till the House should think proper to command him to desist.

Mr. *Fox* said, if there was any thing in the account worth inquiry, let it be inquired into. He and the managers had nothing to do with it. The subject had come under discussion in no less than three different days; and he thought it a little hard, that those on the other side, who appeared to concur with them, and to agree that they had nothing to do with it, should nevertheless suffer it to be again brought forward, and the same things repeated respecting it. If his astonishment could be raised at all at the paper just delivered, it would be at the ridiculous parsimony with which a prosecution of such magnitude was carried forward. If the hon. gentleman had done what was fair, he would have stated his doubts before. The first account contained the subject of his doubts as well as the second; and the latter gave him no sort of information respecting them, which the second did not convey. With regard to the hon. gentleman's declaration, that only two points of law had occurred, if the hon. gentleman, instead of spending his time in the neat calculations he had so nicely made, had examined the charges already gone into, with all his profound skill in arithmetic, he would venture to say he would have found more legal points than he could easily have counted up. In respect to the employment of counsel, he believed it was a new thing to employ counsel on such a prosecution, but he was persuaded, from his own experience, that the assistance of counsel had been and would be indispensably necessary to the safe conduct of the cause. The expenses of the prosecution of Mr. Hastings stood upon the same ground with every other species of public expenditure, and he saw no reason why, after the House had appointed managers for the conduct of the prosecution, it should not give them as much confidence with respect to a prudent management of the expenditure entrusted to their superintendence, as they gave the particular departments which presided over any other peculiar head of public expenditure.

Mr. *Drake* said, that although he approved of the present motion, yet after the rebuff which his hon. friend had met with, he was almost afraid to utter one syllable in its favour. He fully acceded to the compliments passed on the oration delivered by Mr. Sheridan in Westminster-hall, and confessed that he had that day listened to all that was great and grand, ornamental and elegant: virtue had been

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aggrandized, and vice debased; if he was not a natural lover of virtue, he should that day have been made a convert to it. He nevertheless must ever stand up the avowed friend of economy. The managers, undoubtedly, were no way answerable for the correctness of the accounts on the table. They were engaged in nobler objects and loftier pursuits; but surely that was no reason why his hon. friend and himself, being men of humbler faculties, might not attend to matters of the dry and less elevated nature of the bills in question.

Mr. *Pitt* said, that undoubtedly the managers were entitled to the confidence of the House, and whatever assistance they thought was necessary for the safe conduct of the cause, he would be ready to say, they ought to be authorized to procure. He had entertained some doubts in his own mind, whether it was necessary that two civilians should be employed. If the right hon. gentleman thought that they were requisite, he was ready to declare that they ought to be employed.

Sir *W. Dolben* said, that although he had scarcely recovered from the effect of the whiff and wind of Mr. Burke's fell arm, yet he ventured to second the motion, because he thought it the duty of that House to attend to such objects. He defended Mr. Burges from the ridicule of Mr. Burke, and said, that though in the discharge of his duty, his hon. friend had condescended to notice the subject under consideration, he had talents equal to the moving in a higher sphere.

Mr. *M. A. Taylor* considered the motion as a paltry attempt to cast a slur on the managers, and therefore was determined to take the sense of the House upon it.

Mr. *Dundas* said, he had given and would continue to give confidence to the managers; but as the question of the council was settled, and the rest of the Bill referred to matters which lay with the Board of Treasury, he saw no use in proceeding to a division, and would therefore prevent it, by moving the order of the day.

After some further conversation, the order of the day was put and carried.

Debate in the Lords on the Insolvent Debtors Bill.] May 23. Lord Rawdon having moved, that the Insolvent Debtors Bill be committed,

The *Lord Chancellor* objected to the motion. He had trusted that before the House had been called on for that purpose, the noble lord would have stated fully the nature and tendency of the Bill. He could not but lament the want of this necessary information, for of all the productions he had ever read, the present Bill was the most vague, loose, and unintelligible compound of blunders and absurdities. He was certain it did not originate with the noble lord, but had been drawn up by some interested person, who had imposed on his known humanity and love of justice. Bills of this description were, at all times, objects which required the most scrupulous investigation: the House had annually witnessed instances of their being submitted to their judgment, and with much propriety had rejected them. The present Bill embraced objects of a larger scale; it went to overturn, in a great measure, those laws which our ancestors had thought prudent to continue from the time of William the Conqueror to the present period. The learned lord then endeavoured to show the inefficacy of several parts of the Bill, and asserted that it would give additional latitude to wicked and designing men, to prey upon the honest and industrious part of the community. It was his wish to make Insolvent Bills answer their original intention, and then the numbers within the walls would bear but a small proportion to what they now did. It had long been the custom, whenever an insolvent Bill was pending, for persons, by means of some friend, to fling themselves into prison, in order to be white-washed, and thereby defraud their just creditors. The Bill now brought in from the mode in which they were to obtain their liberation, would give them an additional opportunity of effecting this. Under this Bill, those who had been guilty of the greatest breaches of trust might be cleared, whilst a clause particularly prevented the liberation of those imprisoned for verdicts obtained on libels. Was this justice? was this equity? The Chancellor said, he should vote against the commitment.

Lord *Rawdon* was astonished that the learned lord should want farther information, after the full manner in which he had detailed its objects. He could by no means subscribe to the learned lord's assertion, that imprisonment for debt had existed from the time of William the Conqueror. In the days of Edward 1, it only extended to bailiffs, who purloined the revenues of their lords, and

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was farther extended in the reign of Edward 3, but then not until after execution had been obtained. So far from assisting unprincipled men, it was his intention, in some degree, to stop that unbounded credit which was too promiscuously given. Trade had, in fact, degenerated into gambling, tradesmen gave credit to those who had no just right to expect it, and indemnified their losses by exorbitant charges on those who could pay. By this conduct many unthinking young men were early involved in difficulties from which they could never after extricate themselves. The learned lord had drawn a dark picture of the unfortunate inhabitants of prisons; but surely its truth would not be assented to, when it was considered, that many of them were officers who had bravely fought the battles of their country, and, on the conclusion of the war, were reduced on a scanty pittance, unequal to support, with common decency, their rank in life. The American loyalists formed no small part of the persons intended to be relieved; these had reduced themselves to their present lamentable situation, by their firm attachment to this country. The objection that magistrates were not competent to decide between debtor and creditor, was futile in the extreme. The law already allowed them to determine in cases of felony, and surely, investigating accounts, and doing justice between two parties, was not referring that to them which they were not fully able to decide. He trusted that the Bill would be suffered to go to the committee, where it might be altered and amended, to meet the views of their lordships.

The Earl of *Abingdon* said:—My lords; I do not rise to enter into the subject matter of this Bill; I have before stated my objections to it, and have given my reasons why it ought not to be entered into at all. But admitting, for a moment, the necessity and propriety of the measure, in my humble opinion, the noble author of it has begun at the wrong end of the business; so much so as to defeat the very object of his own good intentions. For, my lords, what is the object of the Bill? It is for the relief of insolvent debtors, and of bankrupts, in certain cases. And how is this relief proposed to be obtained? It is to be obtained by drawing, as it would seem, the lines of parity and justice betwixt the two parties of debtor and creditor. But does the grievance lie here alone; and is it only here that relief must be had? No, my lords, there is another end to this business; and which, unless first in the point of order, will render what is now before us last in point of utility. Let the noble author, then, begin, and I will second him not with the law, but with the lawyers. My Lords, I beg pardon for calling the description of men to whom I allude by that respectable name. The title no more than the thing itself appertains to them. The right use of the law is that which belongs to a lawyer; but it is upon the abuse of the law that these vermin feed. I say, then, my lords, let us begin with those licensed robbers, those legalised pickpockets, the pettifogging attornies of this country, who, like locusts, have now so multiplied and overspread the land, that every individual feels, and cannot help feeling the bitter effects of their all-devouring rapacity. My Lords, I speak to the knowledge, I speak to the feelings, of your lordships. For myself, I speak from my own experience, (*experto crede Roberto*), an experience, from which, it is true I have learnt a lesson of wisdom; but it is a lesson which I did not learn without having very sufficiently paid for it. Here, then, my Lords, is the *principium et fons*. Let the noble lord look to these men. Let the rod of justice lash them into some order and regulation; and having laid the restraints upon them, under which they ought to be, and must be, sooner or later, placed, I will take upon me to tell the noble lord, that more than one half of his work is done: that his account of debtor and creditor is nearly balanced. For, my Lords, is it the creditor that imprisons the debtor? No; it is the attorney. And how? The debtor owes the creditor forty shillings, and he is clapped into prison for forty pounds; and perhaps the creditor along with him. And whence does this arise? Look to the attorney's bill, which, like a two-edged sword, is made so dexterously to cut on both sides, that the creditor who gains his suit is oftentimes no better off than the debtor who loses it; and thus are two imprisonments, instead of one, effected. It is therefore, my Lords, not, as I have said, to the theory of the law that we are to advert (for that is sound and good), but it is to the mal-practice of the law, and these are the malversators of it. But there is one other topic to which, with your lordships' leave, I will allude. This

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bill comes before us under the sanction, and with the recommendation of humanity for its support; and, upon that ground, I am right glad to meet it: for, my Lords, our humanity, notwithstanding the many occasions we have for it at home, has been of late so much occupied and employed abroad, has been so distant from ourselves, and so connected with others, so busily at work in making the tour of the east, in culling tropes and figures, and in gathering the oratorical flowers of Indostan, to strew at your lordships' feet in Westminster-hall, that, like the prodigal son, tired of its prodigality, I was in hopes that our humanity had returned again to rest and to remain with ourselves: but, my Lords, vain and forlorn were these hopes in me; for no sooner do we welcome the return of this prodigal son among us from the east; than we hear of his intended flight to the west, and from thence to the south, to act as a missionary among the savages of Africa, to humanize inhumanity, to civilize negroes, to wash the black-a-moor white. Would to God, before this departure of our humanity from hence, that (if unwilling to cast its eyes at home on the spot where we are) it would be pleased to look a little to the westward of this island, to the kingdom of Ireland, my Lords, and in the profusion of its bounty, to bestow some small portion of its commiseration upon the white negroes of that country, who under the weight and pressure of exaction, are wound up to pitches of misery and distress, not surpassed, probably not equalled, by any other human beings existing under the sun of heaven: for such is the fate of these hapless wretches. And then is it, my Lords, that, in doing this, our humanity would act, not as it does, in the very converse of sound philosophy and true patriotism, but as it ought to act; and as, in the words of the poet is beautifully expressed——

"Friends, parents, neighbours, first we do embrace;
Our country next; and then all human race."

In the present instance, however, my Lords, I find our humanity is with us; and it being made the plea of this Bill, I readily receive it as such: but, as in many other cases humanity and policy are at variance with each other, so is it in this: for what is there in life more inhuman, both in theory and practice, than the wars that are continually waging? And what is it but policy that can justify them? What is there more shocking to humanity than the present attempts of Austria and Russia to extirpate the Turks, or to drive them out, and to banish them from their own kingdoms and countries? And yet arguments, no less than arms, will not be found wanting in defence of the measure. Even so too, my Lords, comparing little things with great, is it with the case before us; for who is it whose heart is so obdurate, and whose nerves are so palsied, as not to feel for the distresses of our fellow creatures, under the circumstances alluded to by this Bill: And if this be so in civil cases, what shall we say when we turn our eyes on the criminal jurisprudence of this country, on that sanguinary code of laws under which it may be said we are made not to live but to die? And is there no alteration here wanting, no amendment required? Yes, it will be answered; but this is looking at home, which is too concentric an idea for the eccentric abilities, the lively fancies, and the boundless imaginations of our modern patriots, politicians and orators, to submit to. But, my Lords, the truth is, these are those very cases in which humanity and policy are at variance with each other; for they are the cases that are and have been from time immemorial, in opposition to their humanity, sanctioned under the policy of them, by the laws of the land. It is, then, my Lords, between this humanity and this policy that we are to judge; and it is for us as pilots of the state, so to use the compass of our understandings, and so to steer our course, that, whilst we avoid Scylla, we do not run upon Charybdis. Humanity, it is true, is a good thing; but "too much virtue," even says the moralist "is vice;" and the better the thing is, the worse, when misapplied, are the consequences. But humanity too, is but a term in language, and, my Lords, let us beware of catch words. Economy was the word at one time; at another, omnipotence of parliament; and now humanity is the ton. Whiggism and toryism, too, have had their days. But, my Lords, as I have said, let us beware of catch words: they sometimes lead to good, but much more often to mischief: they are too frequently the snares of politicians, to catch the great as well as the little vulgar in; and are made to operate as the soldier's drum upon the soldier, not by the sense, but by the sound.—Upon the whole, then, my Lords, until, as the necessary and proper data to be given, it shall appear to me in proof, that we are grown so much wiser and better and more humane than our ancestors

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were, and indeed than other nations of the world even now are, I shall take the liberty to rest upon my arms, and not be so ready to enlist under a standard that may lead to good; but which, so far as practice and experience shows, is much more likely to be productive of evil.

The House divided: Contents, 13; Not-Contents, 48. The Bill was consequently lost.

Copy of the Treaty of Defensive Alliance with Holland.] May 23. Mr. Pitt presented, by his Majesty's command, a copy of the defensive alliance between his Majesty and the States General of the United Provinces, signed at the Hague, the 15th of April 1788; and translation. The said translation is as follows:

DEFENSIVE ALLIANCE between his Majesty the King of Great Britain, and their High Mightinesses the States General of the United Provinces.

The mutual and sincere friendship, which has so long subsisted between his Majesty the King of Great Britain and the Lords the States General of the United Provinces, having been increased and stengthened by the interest, which his Britannic Majesty has lately manifested in the preservation of the independence of the Republic, and of its legal constitution, his said Majesty, and the said Lords the States General of the United Provinces, have resolved, in order to cement, in the most solid and lasting manner, the good harmony, confidence and correspondence between them, to form permanent engagements, by a treaty of defensive alliance, for the good of both parties, and for the maintenance of the general tranquillity, as well as of their own in particular: to accomplish so salutary a purpose, his Majesty the King of Great Britain has named and authorized Sir James Harris, Privy Counsellor, Knight of the Bath, Member of the Parliament of Great Britain, and his Majesty's Ambassador extraordinary and Plenipotentiary to their High Mightinesses; and their High Mightinesses the States General of the United Provinces have named and authorized their Deputies for foreign affairs; who, after communicating to each other their full powers in due form, and having conferred together, have agreed upon the following articles.

Art. 1. There shall be a sincere, firm, and constant friendship and union between his Britannic Majesty, his heirs and successors, and the Lords the States General of the United Provinces, so that the high contracting parties shall direct their utmost attention to maintain this mutual friendship and correspondence between them, and their dominions, and subjects; and they engage to contribute, as far as shall be in their power, mutually to preserve and defend each other in peace and tranquillity.

Art. 2. In case either of the high contracting parties should be hostilely attacked by any European Power in any part of the world whatsoever, the other contracting party engages to succour its ally as well by sea as by land, in order to maintain and guaranty each other mutually in the possession of all the dominions, territories, towns, places, franchises, and liberties, which belonged to them respectively, before the commencement of hostilities.

Art. 3. His Britannic Majesty guaranties, in the most effectual manner, the Hereditary Stadholderate, as well as the office of Hereditary Governor of each province, in the Serene House of Orange, with all the rights and prerogatives thereto belonging, as forming an essential part of the constitution of the United Provinces, according to the resolutions and diplomas of the years 1747 and 1748, by virtue of which the present Stadtholder entered into the possession of those offices in 1766, and was re-instated therein in 1788, engaging to maintain that form of government against all attacks and enterprises, direct or indirect, of whatever nature they may be.

Art. 4. The succours mentioned in the second article of this treaty of defensive alliance, shall consist, on the part of his Britannic Majesty, of 8000 infantry, 2000 cavalry, 12 ships of the line, and 8 frigates; and, on the part of the States General, of 5000 infantry, 1000 cavalry, 8 ships of the line, and 8 frigates; which respective succours shall be furnished in the space of two months after requisition made by the party attacked, and shall remain at its disposal during the whole continuance of the war in which it shall be engaged, whilst those succours (whether ships and frigates, or troops) shall be paid and maintained by the power of whom they shall be required, wherever its ally shall employ them.

Art. 5. In case the stipulated succours should not be sufficient for the defence of the power requiring them, the power to

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whom requisition shall be made shall successively augment them according to the wants of its ally, whom it shall assist, even with its whole force, if circumstances should render it necessary; but it is expressly agreed, in all cases, that the contingent of the Lords the States General shall not exceed 10,000 infantry, 2000 cavalry, 16 ships of the line, and 16 frigates.

Art. 6. But as it may happen (considering the distance of several of the possessions of the two high contracting parties) that the advantages which ought to result to them reciprocally from the conclusion of the present treaty, may become illusory, unless measures can be taken for the mutual defence of those possessions, before their respective governors could receive orders from Europe for that purpose; it is stipulated and agreed, That in case either of them should be hostilely attacked, or even menaced with an hostile attack, in its possessions, whether in Africa or in Asia by an European power, the governors of their settlements in those two parts of the world shall be enjoined to concert together the succour to be furnished, and, in case of need, to furnish such succour, in the most speedy and effectual manner, to the party attacked; and that orders to that effect shall be expedited to the said governors immediately after the conclusion of the present treaty: and in case the two high contracting parties should be obliged to furnish the aforesaid succours, they shall not permit the ships of war, of what nature they may be, of the power attacking, to enter into any of their ports in the aforesaid settlements, until peace shall be restored between the party attacking and the ally of the contracting party, unless the said vessels be forced to take refuge there, to avoid perishing or being shipwrecked.

Art. 7. If it should happen that the two high contracting parties shall be equally involved in a war against a common enemy, they reciprocally promise each other not to disarm but by common consent; and they shall communicate to each other confidentially the proposals for a peace, or truce, which may be made.

Art. 8. If the high contracting parties prefer furnishing their succours of troops in money, they shall be at liberty on each side so to do; and then such succour shall be computed at 100,000 florins, Dutch currency, per annum, for 1000 infantry, and at 120,000 florins, of the like value, for 1000 cavalry, per annum, and in the same proportion by the month.

Art. 9. The power requiring shall be obliged, whether the ships, frigates, and troops, with which it shall have been furnished, remain for a long or a short time in its ports, to provide whatever they may want, at the same price as if they belonged to such power itself; it has been agreed, that the said troops or ships shall not in any case be at the expense of the party requiring, but that they shall nevertheless remain at its disposal, during the whole continuance of the war in which it shall be engaged; the succours above mentioned shall, with respect to discipline, be subject to the orders of the chief officer who commands them; and they shall not be employed separately, or otherwise than in concert with the said commanding officer: with regard to the operations, they shall be wholly subject to the orders of the commander-in-chief of the power requiring.

Art. 10. It is agreed, that until the two powers conclude a treaty of commerce with each other, the subjects of the Republic shall be treated, in the kingdoms of Great Britain and Ireland, as the most favoured nation; and the same shall be observed in the United Provinces towards the subjects of his Britannic Majesty: it is however to be understood that this article is not to extend to a diminution of the import duties payable upon linens.

Art. 11. Whereas, by the fourth article of the treaty of peace signed in the month of June 1784, his Britannic Majesty engaged to treat with the Lords the States General for the restitution of Negapatnam, with its dependencies, in case the said Lords the States General should in future have any equivalent to give; and whereas their High Mightinesses have now renewed their request for obtaining that restitution, as well as for settling and determining precisely the sense of the sixth article of that treaty, concerning the navigation of British subjects in the eastern seas; his Britannic Majesty, in order to manifest his good will towards the Republic, is disposed to concur in these desires of their High Mightinesses, and even to secure to the republic additional and real commercial advantages in that part of the world, as soon as an equivalent for those objects can be agreed upon; in return for which his Britannic Majesty will require nothing but what is favourable to the reciprocal interests and security of the contracting parties in the Indies: and to prevent the negociations for such arrangements from retarding the conclusion of the present

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treaty, it is agreed that they shall be begun as soon as possible, and be concluded in the space of six months from the date of the present treaty, and that the convention to be made thereon shall have the same force as if it was inserted in the treaty itself.

Art. 12. The present treaty shall be ratified on each side, and the exchange of the ratifications shall be made in the space of six weeks, or sooner, if it can be done.

Done at the Hague, the 15th of April, 1788.

(L.S.) JAMES HARRIS.

(L.S.) J. W. COMTE DE WELDEREN.
W. F. H. VAN WASSENAER.
L. P. VAN DE SPIEGEL.
GILLAUME DE CITTERS.
W. N. PESTERS.
CHARLES BIGOT.
M. B. C. VAN VOERST V. BORGEL.

Debate on the East India Budget.] May 23. The House having resolved itself into a Committee of the whole House, to consider of the several Accounts and Papers which had been presented from the Directors of the East India Company,

Mr. *Dundas* rose to open the East India Budget. He expressed his hopes that he should not be under the necessity of trespassing long upon the patience of the Committee. On this occasion, he meant to avoid going into any extraneous matter; nor did he entertain a doubt of having it in his power to make out such a statement of the affairs in that part of the world, as should give the most sincere satisfaction to every well-wisher to the Company, and the prosperity of the British possessions in India.

BENGAL.

The first point to be ascertained is the real amount of the public revenue in India. From the distance of India from this country we can only speak by estimate, even as to the past year. The Gross Revenue of the year ending the 30th April last is taken at 5,06,48,906 current rupees (at 2*s.* 3*d.*) corroborated by the actual receipt of the three last years, of which the books of accounts are at home; for the sum taken for the year 1787-8 is less than the actual receipt of any of those years, and less than the average of the three, which is 5,21,88,146.

The next point to be attended to is the amount of Charges, as to which we cannot have the same aid from averages as with regard to the amount of revenues; for the only accounts of ascertained charges we have yet at home are of years before the reductions were made. In the Account now upon the table they are stated at 3,06,62,401, which deducted from the gross sum of Revenue, leaves a sum of 1,99,86,505.

Although, for the reason just given, we cannot have recourse to averages as to the amount of charges, we have the corroboration of the comparison stated in the Account, No. 3, from which it appears that the clear amount of Revenue for the year 1786-7, is 2,00,29,777. The Account, No. 3, does not afford satisfactory information on every point, for it does not give the gross charges of collected revenues, so as to compare them with the estimated amount; we therefore cannot judge with precision whether the estimate has been realized, in consequence of an excess in the collection above the estimate, or a diminution of charges below the estimate; but the account gives the nett revenue received, compared with the nett revenue to be received in the account presented last year, and the surplus of receipts in the whole amounts to 25,85,636. But this is reduced by a deficiency in other articles, amounting to 11,67,784, and brings the surplus in the whole receipts to 14,17,852. This is, however, to be again deducted from by the result of the other side of the account, viz. by the excess of charges above what was estimated, amounting to 5,53,830, leaving upon the whole above estimate 8,64,022 rupees, or 97,202*l.* sterling.

Even this, however, would not have been the result of the comparison, if, from the anxiety to make the account as complete and fair as possible, there had not been added at home to the Bengal estimate of charges, a sum of crs. 7,00,000 for buildings and fortifications; so that the surplus, in reality, according to the home estimate, should be reckoned at fifteen lacks, or more properly seventeen lacks, making the corrections upon last year's accounts stated in the notandum of the auditor. Upon the whole of this consideration we seem perfectly warranted to rest on the estimate now upon the table, as containing, in no respect, too sanguine a view, either of the amount af the revenues, the extent of the charges, or the

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surplus estate of Great Britain at the presidency of Bengal, according as matters were circumstanced when these estimates were transmitted.

Madras.

In observing on the Madras Accounts, Nos. 4 and 5, we have not the same advantage in comparing the actual receipts and charges with estimated receipts and charges; neither does the account on the table of averages, if former years are to be taken, justify so large a sum of receipt as is estimated for the year 1787-8. The average of the three years in the account amounts to 25,76,805 pagodas (at 8*s.*) The following corroboration, however, deserves attention:—

By the revenue letter received per Ravensworth, dated 17th July 1787, it appears, that the collections under the Board of Revenue amounted to pagodas 18,22,975 exclusive of what was received from the Nabob. They were estimated as follows:

Coinage Duties ...	6,428	
Sea Customs	37,692	
Land Customs ...	15,140	
Land Revenues ...	18,13,610	
		18,72,870
Being only Pagodas.....		49,895

or about half a lack below the sum estimated, or 19,958*l.*, which is easily accounted for by "the uncommon drought of the season, and the most entire failure of the crop in the Jaghire lands."

The charges of this year are higher than former years, and of course I have less scruple in giving credit to that side of the account. The article on which I chiefly hesitate is the sum of above twenty lacks of pagodas as the amount of land revenues. Taking the account as it is, the revenues are estimated at .. 32,73,041
the Charges at 31,77,785

leaving a Surplus of 95,256

Although I hesitate, as to the particular articles not being warranted, either by the averages of past years, or by comparative statements founded on realised estimates, I am, at the same, to hazard an opinion, that the revenues will probably turn out to the amount now estimated; for the Nabob's subsidy is estimated only at seven lacks in place of nine lacks, and no notice is taken of the debt, for which five lacks ought annually to be paid to the Company in extinction of the debt due to them. In that view I do not feel myself too sanguine in supposing the ..... to be to the amount estimated, when there is a fund omitted, to the amount of seven lacks, to answer the deficiency of the collection of such articles as may be supposed too sanguinely stated.

Bombay.

With respect to Bombay Accounts, No. 6 and 7, we can draw no conclusion as to the extent of the revenues by an average of the whole three years: for the first of them comprehends revenues not in our power; but the last two seem strongly to justify a revenue being supposed amounting to 11,76,601 Bombay rupees.

The charges to this settlement do, and always must, greatly exceed its revenues. They are estimated for the year 1787-8 36,51,245. The difference is 24,74,644. And this is possibly a just estimate; for in a settlement where the establishments are not complicated or liable to a great variety of contingencies, there is little difficulty in forming an estimate tolerably accurate. I am confirmed in this observation by accounts just arrived, the one an account of the actual revenues for three years; viz. 1784-5, 1785-6, and 1786-7, and an account of actual charges for the same years. From these accounts it appears, that the average amount of Bombay revenues for three years; viz. 1784-5, 1785-6, and 1786-7, is 11,32,412, and the average amount of the ordinary charges, for the same period, is 32,29,847, leaving a deficiency on that average of 20,97,435 Bombay rupees, or 262,178*l.* sterling.

Bencoolen and Pinang.

No estimate is received from Bencoolen, nor any other information respecting the probable amount of receipts and disbursements of this residency. By the court's orders of March 1785, the expenses of this residency were directed to be reduced to the sum of 27,650*l.*; but these orders have not been carried into effect. In the Bengal estimate for 1787-8 the amount of supply allotted for Bencoolen, is stated at crs. 3,50,000, and for the new establishment of Prince of Wales's Island there is allotted 2,50,000, making 6,00,000 current rupees, or 67,500*l.* sterling.

General View.

To ascertain the precise value of the Indian Revenues, add together the net Revenue of each Settlement, and from that deduct the total of the Charges.

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Revenues.	Pounds Sterl.
Of Bengal	5,698,001
Madras	1,309,216
Bombay	147,075
Total Revenues	7,154,292
Charges.	
Of Bengal	3,449,520
Madras	1,271,114
Bombay	456,405
Total Charges	5,177,039
Net Revenues	1,977,253
For Bencoolen and Penang	67,500
There remains	1,909,753

This is the revenue, after defraying every expense of establishment, according to the present state of them. But, in order to give full information on the subject, it is proper to inform the Committee, that from this several deductions fall to be made. 1. The additional expense of the late augmentation of King's troops 146,250*l.* 2. The government customs, which are stated at 164,169*l.* 3. The additional sum requisite to complete the native force ordered at Bombay, amounting to 52,200*l.* 4. It appears, by a letter from lord Cornwallis, that in Sept. last he had made an addition to the cavalry at Bengal, which would occasion an increase of expense above what is already paid on that account of about 11,250*l.* These are all the deductions I can figure to myself, which fall either to be added to the Charges or deducted from the Revenues, and adding them together they amount to 373,869*l.*, which being deducted from the Net Revenue, there remains 1,535,884*l.* To this must be added, as a part of the Indian funds, the amount of Import Sales, Sales of Stores and Certificates, amounting to, per estimate, 355,446*l.* Making together 1,891,330*l.*

This sum is applicable to the discharge of the debts in India and the purchase of investment. The debts are undoubtedly entitled to the preference, if the purchase of the investment cannot be obtained without injuring the creditors. In truth, however, these interests are perfectly reconcileable, and mutually accommodate each other. The debts last year were stated at crs. 9,26,40,162; this year they are stated at 7,62,21,563, being a decrease of debt payable in India to the amount of 1,64,18,599. But this is not to be supposed an actual extension, but arises from the sum transferred to England, amounting to crs. 1,49,09,307. The real decrease, therefore, of capital upon the account of debts themselves, amounts to crs. 15,09,562, or 169,825*l.* sterling.

In truth, however, the debt actually discharged is much more than the decrease above stated; for there is no doubt the debt last year was taken too low, owing to the circumstance of the arrears at the other presidencies being much larger than lord Cornwallis supposed, when he wrote his letter of 16th November 1786. Here Mr. Dundas read that part of lord Cornwallis's letter on the subject of arrears, and likewise the letter from the Governor-general in council, of 1st September 1787.

The statement here referred to amounts to the sum of 2,544,975*l.* But from this sum is to be deducted, on account of Prince of Wales's Island, and some other contingencies not estimated, 48,327*l.* There remains 2,496,648*l.* From this is to be deducted, allotted on the estimate for the other settlements 1,098,562*l.*, and there remains the sum of 1,398,086*l.*, which is the amount of the excess mentioned in the Bengal letter of the 1st September 1787, above the sum estimated to be appropriated to the other presidencies, according to the estimate of receipts and disbursements for the year ending the 30th April 1787.

From this sum of 1,398,086*l.* falls to be deducted the sum of 370,795*l.*, stated on the account of probable receipts and disbursements, as engaged for and expected to be discharged within the period of the account, and therefore improperly stated as an unexpected excess. The usual excess, therefore, is 1,027,290*l.* How much of this ought to be added to the sum of decrease of debt depends on the question, whether the sixty-four lacks of arrear, engaged for as mentioned in lord Cornwallis's letter of 16th November 1786, is included in the above sum. The interest of last year was stated payable in India, 716,653*l.*, and of this yearly account, No. 14, 602,251*l.* The decrease of interest payable in India is therefore 114,402*l.*

From what is stated, it is obvious that the fund applicable to the investment must entirely depend on what further sum of the India debt is subscribed, for the whole

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surplus that remains after payment of the interest of the debt in India is applicable to the purpose of investment. If the whole debt remain, which is highly improbable, the sum would be 1,289,879*l.* This sum would, in reality, be sufficient for every home purpose, if no more debt was to be transferred.

Upon this state of the India accounts a very comfortable view of your affairs is laid before you, not only in the actual decrease of debt, but still more from the consideration that this decrease has been made at the same moment that, by an extraordinary exertion of the resources and credit in India, the immense and dangerous load of military arrears has been swept away, the army put in the course of regular payment, and your credit in full vigour, if the rate* of discount is to be held as a criterion. Not meaning to detain the Committee, or to divert its attention from the proper business of the day (an examination of the accounts on the table) I avoid entering upon any collateral details, however much I may feel that a detail of many particulars in the present government of India would strongly corroborate the prospects of increasing prosperity of our Indian provinces. Such are the new arrangements with the Vizier of Oude; the new regulations relative to Benares; the regulations for the provision of investment; the impartiality in the sales of salt; and the late practices with the Nabob of Arcot, and the Rajah of Tanjore. It is always stated that this prospect, which extends for its completion into a course of future years, depends upon the precarious continuance of peace. I must state things as they are at present; but, at the same time, those prospects of continued peace, are not decreased since I last addressed the House, and the late transactions in Holland hold out the fairest hopes of peace, both from their immediate and probable future consequences. I might likewise advert to the late treaty with France, explanatory of the thirteenth article of the Treaty of Paris.

Mr. Dundas concluded with moving his first Resolution; viz. "That the sum total of debts owing by the East India Company, in their different settlements in the East Indies, exclusive of the sums for which bills have been granted, payable on the Court of Directors at home, in pursuance of their orders of the 15th of Sept. 1785, amounted, according to the latest accounts received in England, to the sum of 7 crore, 62 lacks, 21,563 current rupees."

Mr. *Hussey* stated some doubts that remained on his mind respecting the debt in India, and the surplus which the right hon. gentleman had stated to have amounted to above two millions. He asked, what had become of that surplus? He said he entertained a very high opinion of lord Cornwallis, and looked up to him with confidence as the person in whose hands India was most likely to be preserved.

Mr. *Francis* said, that the right hon. gentleman had declared that the affairs of India were in a prosperous situation, and therefore he begged leave to state some difficulties that occurred to him. They had heard much of prosperity, of improvement of the revenue, and of the reduction of charges. The right hon. gentleman had with great exultation and triumph said, he should be able to state such an account of the affairs of India, as could not fail to give satisfaction to every man who heard him; that the affairs of India were rapidly getting into the prosperous state that he had predicted last year; and that they had a surplus of two millions. If the fact were so, they should in the first place have proved, that they had brought their resources to the level of their expenses! next they should prove, that the debt was reduced in proportion to the excess of their revenue; and next, that the certificates were diminished, and a great quantity of the Company's paper taken out of circulation. He remained, Mr. Francis said, exactly as he did the year before, fixed in opinion, that East Indian estimates might be so cut and contrived as to be made capable of supporting any assertions, however glaringly monstrous or absurd. The prosperity, if there was any, should be in Bengal; but the Bengal estimate for 1787-8 (notwithstanding sundry reductions in the civil and military charges of 120 lacks) still, after five years peace, exhibited an excess of disbursements beyond resources, to the amount of 1,36,16,525 current rupees. The preceding year's estimate (viz. of 1786-7) promised to provide for certificates then in circulation, to the amount of 1,20,76,902

* Certificates in circulation, the 30th Aug. 1786, crs. 1,87,72,167 : 12 : 9: discount 12 per cent.—Certificates in circulation the 30th August 1787, crs. 1,75,88,976 : 7 : 2: discount 6 : 12 per cent. Vide general letter from Bengal, dated 1st September 1787.

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rupees. The present estimate stated the amount of certificates to be discharged in this year at 1,69,24,654 rupees, consequently that part of the Company's debt, instead of being paid off, was increased to the amount of 48,47,752. The bond debt at Bengal on the 3d Nov. 1786, was stated at 1,86,05,220 rupees. On the 31st Oct. 1787, the bond debt was stated at 1,98,85,531, consequently that debt was increased by 12,80,511, rupees. In April, 1787, the whole of the Company's debts abroad were stated at 9,26,40,162 current rupees. In May 1788, they were stated at 7,62,21,564, by which it would appear, that the difference,(viz. 1,64,18,539) had been paid off; whereas the fact was, that 150 lacks had been transferred from India to England, and were a burthen to the Company's affairs at home instead of abroad. At Bombay the annual disbursements (exclusive of the interest on a capital debt of 161 lacks at 9 per cent.) were stated to exceed the receipts by 42,34,747 current rupees. Was it possible that Bengal could be able to provide for that exeess? Was it possible for Bengal to send 101 lacks of rupees to the other presidencies? Let them hear what Mr. Hastings said on that subject, and when Mr. Hastings and he agreed, they must be right. Mr. Hastings said "If the strain be carried too far on Bengal in its present state, I predict that not only its capacity of assisting the others must annually diminish, but its own embarrassments increase, so as to endanger its very existence, if ever it should be pressed by any calamity." To that position Mr. Francis said he fully subscribed. He asked, was there any visible influx, or cause of influx of wealth into Bengal. He called upon any man to state it, if he could. The state of the mint duties would, he said, furnish a strong presumptive proof of the declining trade of the country. In 1782 they stood at an actual receipt of 39,000 rupees; in 1787, the expected receipt is at only 13,000 rupees. The right hon gentleman had talked of lord Cornwallis's letter, and with an air of triumph had said lord Cornwallis gave an *ex post facto* approbation of the measure of sending out the four regiments to India. The House knew nothing of that. Why was not lord Cornwallis's letter read? Why should not the House know what lord Cornwallis said? Why should not the House read it? They ought to have the letter. The right hon. gentleman, in describing the probability of a continuance of peace had said, he was sure they could not be at war with any body [a cry of No, no.] Mr. Francis owned he had used a high expression, but certainly the right hon. gentleman had tried to make them believe war must be at a very great distance. If so, why increase the European military force? There was one part of the right hon. gentleman's speech with which he perfectly concurred, and that was in respect to the abolition of the government customs. He was glad they were given up, as they were disgraceful, and the most teasing and irksome mode of raising a revenue, that ever was thought of. The right hon. gentleman, however, had stated the government customs at 14 lacks of rupees; he did not believe they ever produced so much. The right hon. gentleman had declared that the discount on the paper in circulation was reduced from 12 to 6 per cent. He was ready to admit they were better than before, but the right hon. gentleman seemed to suppose the certificates bore no interest; it was to be remembered they bore an interest at the rate of 8 per cent. That circumstance the right hon. gentleman had sunk in the Committee. With regard to the power given to lord Cornwallis to raise the exchange, did the right hon. gentleman know how dangerous it was to put the power of fixing the interest on the remittances into lord Cornwallis's hands? He did not mean to say that lord Cornwallis would abuse the power; but the thing itself was dangerous, since it held out such a strong temptation for abuse. Who that had a fortune to remit home, and invested with power to raise the exchange, would not do so? Besides must not the former subscribers be paid the difference? With regard to the right hon. gentleman's declaration, that the payment of the debt in India was compatible with the investment, and that the best mode of paying the debt was to send it home to England, if that system was to continue, and the whole of the investment, when sold here at home, was to go to the discharge of the bills drawn upon the Company's treasury from Bengal, what did the Company get by the investment? Mr. Francis concluded with declaring, that he could not think the affairs in India were in the prosperous situation described by the right hon. gentleman.

Mr. *Grenville* said, that the hon. gentleman had complained last year, that according to the estimates, the revenue did

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not appear equal to the annual expenditure, and he had made the same complaint again; the hon. gentleman had been answered by him last years and he must receive the same answer again; "According to the mode of making up the estimates, it must ever appear that the annual expenditure exceeded the annual revenue, because the whole amount of the outstanding debt was charged as a part of the annual expenditure;" which made just the same difference as if the Chancellor of the Exchequer was in one of his budgets, to state the whole of the unfunded debt as part of the year's expenses, against his ways and means. His right hon. friend near him had explained, in his mind, with a clearness that amounted to conviction, what the actual amount of the annual revenue was, and what the amount of the annual expenditure; and he thought not only from that statement, but on the face of those estimates, it appeared that the revenue did exceed the expenditure. With regard to the other hon. gentleman's argument, that if there was a surplus of two millions, it should have been applied to the discharge of the Bengal debt, surely that was neither a very just nor a very accurate argument. The fact was, the Bengal government had applied not only the surplus of two millions, but somewhat more, to the relief of the other settlements; hence the debts of the other presidencies, as the hon. gentleman had admitted, were diminished, and the debt of Bengal increased. The hon. gentleman had next objected to one million a year being sent from Bengal to Madras, Bombay, and Bencoolen, and stated the total at 42,000 lacks of rupees. This was a strange error, since the real sum sent last year was but 24,000; to which, on account of the increased military establishments, were to be added five lacks more, making in the whole about thirty lacks. With regard to the deduction of the discount on Bengal paper in circulation, from 12 to 6 per cent. the hon. gentleman had said, that his right hon. friend had sunk upon the Committee the circumstance of the Bengal certificates bearing an interest of 8 per cent. But as the fact stood, it was from that very circumstance that his right hon. friend had said, that the discount being reduced to 6 per cent. the certificates were much about at par. Upon the whole, he thought his right hon. friend was not too sanguine in his statement, but extremely moderate. On former occasions he had thought his right hon. friend, from the natural turn of his mind, apt to state matters respecting India rather too sanguinely, but he sincerely believed the reverse to be the fact in respect to the whole of his statement that day. Sure he was, that in some of his deductions, he had stated them too high, and particularly in that of the government customs. Mr. Grenville said, the candour and fairness of mind of Mr. Hussey had compelled him to do justice to lord Cornwallis; the hon. gentleman had given him an opportunity of declaring, that, to that noble lord and sir Archibald Campbell, this country in his opinion, owed obligations that she never could repay; and when we considered in whose hands the government of India was, and what was to be expected from their former conduct; when we reflected on the character of general Meadows, who was going out governor of Bombay, we might reasonably hope that India would continue to prosper, and the affairs of that country be so perfectly restored, as to be put on a footing highly advantageous to the interest of the Company, and to those of Great Britain.

Mr. *Baring* said, that in order to ascertain what was the real state of the comparative amount of the revenue and charges, he had extracted the annual revenue as it actually stood, and balanced that against the actual charge, and from such a mode of comparison, he found that Bengal absorbed the whole of its annual revenue, and something more. In the annual revenue, he included the million sent from Bengal bond debt; and increasing the number of certificates in circulation, in order to lessen the debts of Madras and Bombay. It might be a safe system in time of peace and quiet, but in time of war, it would be as ruinous a mode of proceeding as could possibly be adopted; because the pursuing such a system in a country, the resources of which were unequal to the annual disbursements, must draw on infinite difficulty and distress. What principally occasioned him to rise was that part of the right hon. gentleman's speech, in which, with an air of exultation, he had in a manner addressed himself to him, declaring, that in the last letter received from lord Cornwallis, his lordship gave the most cordial testimony of his approbation of the measure lately adopted, of sending out four additional regiments to India. He had not seen lord Cornwallis's letter, and therefore he could not

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speak with accuracy of its contents; but he would venture to say, he had not in that letter decided in favour of sending out a great number of officers at a time when the Company had 600 officers of their own in India unemployed, nor had his lordship given any opinion against sending out a number of recruits to fill up the vacancies in the skeleton regiments now in India.

Major *Scott* said: I have examined the several accounts now before the Committee, with all the accuracy that I am capable of, and I can with confidence say they more than confirm every statement which I have at any time had the honour to mention to this House, in opposition to the glaring misrepresentations of the hon. gentleman (Mr. Francis). It appears evident, beyond contradiction, that from the revenues of Bengal, Bahar, and Benares, and the Oude subsidy, after the payment of all our expenses of every denomination, there is an actual surplus of two crores of rupees, or two millions sterling; whereas I never presumed to reckon upon more than a surplus of 150 lacks, or 1,500,000*l.* and the difference arises from two causes; the actual receipts are higher than I estimated them, and the expenses are lower than I had conceived they could be brought. I do not go upon a vague estimate, but upon an estimate grounded upon the actual receipts of former years. If I go to Oude, I find, from an authentic document from lord Cornwallis now upon your table, that we have received annually from the vizier for the last nine years, 84 lacks; in future we are to receive 52 lacks annually; and lord Cornwallis tells us, he has no apprehension of that resource failing; such is his confidence on Hyder Beg Khan; yet we are told every day that Oude is ruined beyond redemption. If I look to Benares, I find lord Cornwallis and the right hon. gentleman take credit for a revenue of 44 lacks annually from that country, and lord Cornwallis tells us, he has no fears either for the balance of the last, or the full receipt of future revenues; yet we the knights, citizens, and burgesses in parliament assembled, are marching into Westminster-hall three times a week, to declare, that the revenue from Benares never can be received, and that we have ruined the country. If we look to Bengal and Bahar, we shall find from documents upon your table, that the revenues are now collected precisely in the same manner, and as near as possible to the same amount as they have been collected in former years. The salt and the opium are productive branches of revenue, and are in an improving state, and the natives are happy and contented. I find indeed, that one branch of revenue has fallen off. The mint duties in 1782 produced near 40,000 rupees,; this year they are estimated at only 13,000; but I do not agree with the hon. gentleman (Mr. Francis) on the conclusion he has drawn; for the fact is, that in 1782, the money procured by the nabob from the Begums, and employed in liquidation of his debt to the Company, was principally received in our mint. The hon. gentleman asks, what is become of the Bengal surplus? I will answer him—the last three years investments have been purchased without drawing bills upon England: the arrears of our army in Bengal have been paid off; remittances have been made to Madras and Bombay. In a word, having once established indisputably that there is an actual surplus of revenue in Bengal, and its dependencies, amounting to two millions annually; it must be obvious that a very few years of peace must put us in a most flourishing state, and we never had a fairer prospect of a long peace in India than we have at the present moment.

Sir *Grey Cooper* asked when Mr. Dundas intended to bring the other estimates, referring to the state of the Company's affairs at home, under discussion?

Mr. *Pitt* said, the subject matter of those estimates was totally distinct from that of the estimates upon which the resolution was grounded. It was a duty imposed upon his right hon. friend, in the course of every session, to submit to the House an account of the Company's affairs in India, with an account of their bond debts in Bengal; but it was not his duty to state the situation of the Company's affairs at home. The directors were bound to lay an account of the latter before parliament every session and if any gentleman questioned the validity of any part of that account, he had an undoubted right to bring the whole account, under the consideration of the House, and move any proposition which he might think fit. But, unless that was done, or some reason arose to induce the House to go into the discussion, it was not absolutely necessary. He understood, however, that an occasion would soon offer which would bring the state of the Company's affairs at home before the House, because it probably

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would be necessary to attend to an application from the Company to grant them additional powers of extending their credit.

The question was now put upon the resolution, and carried. Mr. Dundas then moved various other resolutions, which were severally agreed to by the Committee.

May 26. The report of the Committee being brought up.

Sir *Grey Cooper* rose, and expressed his wish that the House would favour him with their attention, whilst he made a few necessary remarks upon part of the statement laid before the House by the right hon. gentleman on the preceding Friday, and particularly upon the accounts or estimates of the annual revenues and charges of Bengal, for three years, according to the latest advices. By that account it appears, first, that the estimate of the total revenues of that province is less in 1787-8 than in 1784-5, by the sum of 260,000*l.*; secondly, that the amount of the total of the charges is reduced from 4,310,000*l.* in 1784, to 3,060,000*l.* in 1787-8. And the right hon. gentleman stated, that after all deductions, the clear available surplus in India, applicable to payment of debt and investment, amounts to 1,535,000*l.* The savings, therefore, by the reduction of civil and military charges, constitute almost the whole of that surplus. They amount, as it appears above, to 1,250,000*l.* and, therefore, it seemed somewhat singular that the right hon. gentleman had, in the course of his long and eloquent opening, made so slight and so cursory a mention of this most important branch of the account.—He had been given to understand, that an hon. person now in England, had acquired considerable merit during the time he held the office of Governor-general, in originating and forming the plan of economy, and the retrenchment of expence in the civil and military charges, including contracts, contingencies, buildings, and fortifications, and in all the other charges, as far as the reduction could be made with safety, propriety, and justice; and that he had anticipated the orders which he received afterwards from the Board of Control, for making such reductions. He admitted, that peace was the principal cause of such savings and reductions, but that sir John Macpherson had followed up that cause, and put the plan into motion and operation, and carried it forward, as he had been given to understand, with judgment, temper, firmness, and effect: and it must be admitted, that the beginning of reform, and the reduction of establishments, and particularly the defalcation of salaries and perquisites, are not amongst the most pleasing or popular exercises of power. He declared, that he did not make these observations on the silence of the right hon. gentleman, with any party consideration whatsoever, and he had too good an opinion of the liberality of the sentiments of the right hon. gentleman, and of his regard to justice, to believe that he would withhold any portion of praise or approbation which might be thought due to that hon. governor for his public conduct in this or any other respect, because it happened that he went out to India under the auspices of the administration in 1781. He declared, that what he had observed upon this occasion, was without any concert with the hon. person to whose conduct he alluded. He begged to say a few words on another part of the right hon. gentleman's speech. That gentleman had congratulated the Committee and the nation, that the affairs of India were getting rapidly into a better situation than could have been expected even in the last year. Sir Grey declared that he saw no traces of a rapid progress. During the course of the last year, the debt had been reduced by the payment of the sum of 15 lacks, or 150,000*l.* and no more. The operation which was mentioned, and taken credit for, of the employment of a million of the Bengal revenue in commuting bonds and certificates outstanding in Madras and Bombay, for debts of the like nature to be demandable in Bengal, was not clearly stated, and the result of it was not yet before the House. But upon the whole, he trusted more to the characters of the men who now administered the affairs of India, for the prosperity and happiness of those provinces, than to any accounts or estimates, or to any of the most able or eloquent explanations of those estimates, of the present or probable future state of India. There was by some fatality in that climate, a constant and invariable tendency to relapse into the old habits of peculation and profusion, and it would require all the virtues and all the talents of lord Cornwallis, all his inflexible integrity, and all the energy of his resolution, to give permanency to the system which he was now pursuing with so much honour to himself, and so much advantage to the provinces,

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that had the good fortune to be under his command.

Mr. *Dundas* said, that no man was more willing than himself, to admit the merits of sir John Macpherson, while he held the government of Bengal, and therefore he begged that his not having expressly taken notice of that gentleman, might not be interpreted into any unwillingness on his part to do him every possible justice. He had not mentioned that gentleman, because the nature of his duty did not make any such mention necessary, nor could he have done it without going more into matter not immediately connected with the facts it was his business to state, than he felt it right for him to go, because in that case he must not only have mentioned the merits of some but the demerits of others. He had therefore thought it more wise to avoid any such allusion altogether. Sir John well knew his sentiments respecting him, and that there was not a single dispatch sent out to him, while in India, that did not convey him approbation and thanks for the firmness, integrity, and wisdom of his conduct in many instances. What he had said often in private, he had not the smallest objection to declare in public, and to affirm in the face of that House, that the conduct of sir John Macpherson in India, had been highly meritorious.

The resolutions were then agreed to.

Debates in the Commons on the African Slave Bill.] May 21. Sir *W. Dolben* rose in consequence of his notice, to move for leave to bring in a bill for the relief of those unhappy persons, the natives of Africa, from the hardships to which they were exposed in their passage from the coast of Africa to the colonies. He had been honoured with the conversation of those gentlemen who had officially spoken against the introduction of such a Bill as he had given notice of, and upon finding that he meant merely to confine the object of the Bill to regulating the treatment of the African natives while on shipboard, and to keep it totally clear of the general question, that the House had resolved to take into their consideration next session, those gentlemen had said, that if he would not bring in the Bill till Monday next, they would have no objection to its being introduced. The regulations attempted by the Bill, would regard the number of Africans put on board each ship, limiting that number in proportion to the tonnage of the vessel, in order to prevent their being crowded too close together; the securing to them good and sufficient provisions, and other matters conducive to their health and their accommodation. He should not have thought of bringing in the Bill at that late period of the session, were he not convinced of the existence of grievances to a considerable extent, and satisfied, that by applying an immediate remedy, some thousand lives might be saved before the next session of parliament. He concluded with moving, "That this House will, immediately, resolve itself into a Committee of the whole House, to consider of the state and condition of the natives of Africa during their passage, in British ships, from the coast of Africa to their landing in America, the West India islands, or elsewhere."

Mr. *Whitbread* seconded the motion.

Mr. *Gascoyne* said, that when the hon. baronet had first given notice of his intention for leave to bring in a Bill, he had declared his determination to oppose it, because he considered it as highly improper to interfere with the general question, which the House had unanimously agreed it was too late in the session to bring under discussion, and had therefore wisely reserved it for consideration next year. When he found, however, that the hon. baronet meant only to remedy the evils stated to exist in transporting the inhabitants of Africa to the West Indies, he should not object to the bringing in of the Bill. He begged, however, not to be considered as pledged to support the Bill, or to oppose it.

The motion was agreed to, and the House having resolved itself into a Committee, sir W. Dolben moved, That it was the opinion of that Committee that a Bill ought to be brought in to regulate the transportation of the natives of Africa to the West Indies.

Mr. *Cornwall* asked, what laws already existed on the subject, and what facts the hon. baronet had to state to the Committee, to induce them to vote the resolution moved?

Sir *W. Dolben* answered, that there were no laws in existence on the subject; that as to facts he had a large body of evidence ready to be adduced, if it were deemed necessary to prove that the African natives did suffer very great and intolerable hardships on their voyage to the West Indies. He said he could call naval officers, captains of men of war, captains

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of Guinea-men, the mates and surgeons of such ships, and various other respectable witnesses, to prove that the grievances endured by the natives of Africa, while on their passage to the colonies, were intolerable.

Mr. *Hamilton* said, that the word "regulate" convinced him that by such a Bill the House would, for the first time, sanction that most abominable traffic, unauthorized by the doctrines of divine law, and so repugnant to human feelings. He therefore deprecated the voting of the resolution as a measure that would be misconstrued as an indirect declaration on the part of the House, that they approved of the Slave Trade, and recognized it as legal.

Sir *W. Dolben* observed that, as a member of parliament, he could not say that the Slave Trade was an illegal traffic, because no parliamentary declaration, either by statute or otherwise, maintained this doctrine. He therefore wished, by a Bill, to provide some temporary regulations in the transport branch of the Slave Trade, for the comfort of the unhappy sufferers.

Mr. *Pitt* reminded the House that, on a former occasion he had cautiously avoided giving any opinion respecting the legality or illegality of the Slave Trade, or whether it ought to be suffered to be continued, and if so, under what regulations. He meant strictly to adhere to the same rule with respect to the Bill then moved for; but without precluding himself from declaring his sentiments on either side of the general question, when it should come properly under consideration, he thought he might fairly support the present motion. There was undoubtedly a possibility (and a bare possibility was sufficient ground for the argument he meant to state), that in consequence of the resolution lately come to by the House, those persons who carried on the branch of the Slave Trade to which the Bill referred, might, from the knowledge of the intention of the House to examine the subject of the Slave Trade fully next session, put the natives of Africa into a worse situation during their transportation to the colonies, even than they were in before, by cramming additional numbers on board their vessels, in order to convey as many as possible to the West Indies, before parliament ultimately decided what was most fit to be done upon the general subject of the Trade. Certainly, therefore, the possibility that such a consequence might grow out of their late resolutions, during the intervening months, between the end of the present and the commencement of the next session, was a sufficient parliamentary ground for them to provide immediate means to prevent the existence of such an evil. On that ground the Bill should have his support. He wished, however, in order to mark the Bill as a measure distinct from the general question, that the hon baronet would alter the title, and instead of "A bill to regulate," call it "A bill for providing temporary regulations, &c."

The resolution so amended was agreed to; and the House being resumed, leave was granted to bring in a bill for providing certain temporary regulations respecting the transportation of the natives of Africa, in British ships, to the West Indies and elsewhere.

May 26. Sir W. Dolben brought in the said Bill, which was read a first time. On the motion that it be read a second time,

Mr. *Gascoyne* insisted that the Bill was not likely to be productive of any good consequences, and that it could not pass without bringing forward a premature discussion of the general question. He objected to the mode of regulation proposed in the Bill, even if regulation were necessary, as being neither practicable in itself nor adequate to its proposed object. If the Bill proceeded, his constituents must, he conceived, be heard by counsel, and such a variety of evidence must be gone into, as would unavoidably occupy more time than the period of the session would admit. He therefore moved, "That the Bill be read a second time upon that day three months."

Mr. *Brickdale* seconded the motion.

Mr. *W. Smith* regarded the Bill as indispensably requisite to answer the purposes of humanity, and put a stop to the cruel practices which were stated to prevail in that branch of the African Trade, to which alone the Bill pointed. If those who opposed the Bill designed to examine witnesses against it, he hoped they would bring forward their evidence in as compact a shape as possible. He hoped no gentleman would attempt to mix the question of the present Bill, with the general question of the policy of the Slave Trade, with which, in its provisions, it had no necessary connexion. He urged the necessity of interfering, without delay, in a case that called for reform, and to which

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an easy and immediate regulation was applicable; and reasoned upon the appearance that the conduct of those who opposed it must bear in the eyes of every reasonable man, maintaining that an obstinate resistance to the granting any relief to the sufferings of our fellow creatures in Africa, could only be imputed to a consciousness of the existence of the grievances in question, and an interested desire to avoid inquiry, in order to procrastinate regulation and reform.

Mr. *Young* supported the postponement and observed, that when the mind should expand so as to embrace the whole of the objects taken in by the present Bill, without at all looking at the more extensive general question. he was persuaded gentlemen would see the extreme difficulty or rather the utter impossibility of passing the Bill in the short period of the present session. The hon. baronet had undoubtedly proposed it with the best views and under the most liberal and humane notions, wishing to afford relief as early as possible to our suffering fellow creatures in Africa; but, he was sure the hon. baronet was not aware of the wide field for discussion and inquiry his Bill would lead to. The hon. gentleman who spoke last had called upon the hon. gentlemen who opposed the Bill, to come forward and clear themselves, from the suspicions which they had incurred. It was neither fair nor parliamentary to charge any set of gentlemen with being liable to suspicion, on account of their public conduct as members of that House. Every gentleman had an undoubted right to act upon his opinion, and upon the information he had received from those most conversant with any subject before the House. He was persuaded, that the prematurely passing the present Bill would defeat its own object.

Mr. *Smith* said, he had not talked of the suspicions under which the opposers of the Bill laboured, but had merely observed, that as they had, a few days since, professed themselves extremely anxious for inquiry, in order to clear the merchants of Liverpool from the suspicion of countenancing the cruel practices which were reported to prevail in the conduct of the Slave Trade, it particularly behoved them to bring forth their evidence now, and assist the House in putting the present Bill into a proper and practicable shape.

Lord *Penrhyn* denied that the cruel practices asserted to prevail had ever existed. It was absurd to suppose that men, whose profit depended on the health and vigour of the African natives, would purposely torment and distress them during their passage, so as to endanger their lives. He flatly denied the fact. The merchants of Liverpool were anxious for an inquiry; but, for what sort of an inquiry? Not a hasty, intemperate discussion, but a full, candid, and sober investigation, for the sake of truth, and the satisfaction of reason. Whenever such an inquiry took place, it would be found that all the idle stories of cruelty, reported to be common on board the African ships, were groundless calumnies. He had full authority from the merchants and traders of Liverpool to say, that they would themselves come forward with a bill during the ensuing session, or assist the House in forming one, to put the Trade under proper regulation.

Mr. *Drake* said, that the hon. baronet deserved the thanks of the House for having introduced the Bill. It did him the highest honour, and that House ought to receive it with gratitude, and foster it in their bosoms. The preamble stated, that it was to prevent the inconveniencies that were supposed to exist in the mode of conveying the natives of Africa to the West Indies. He said, inconveniencies was, in his mind, much too mild a term. It had, he supposed, been adopted as a conciliatory word; but hardships, severities, cruelties, or any other strong expression, would be a more apposite term to be adopted; and when the Bill got to a committee, he would move such an amendment. He reasoned upon the necessity of carrying so humane an instrument into immediate effect, stating the severe hardships that the poor Africans suffered, and must suffer, if six months were allowed to pass over before any attempt was made by that House to relieve them; and described the miseries of an infinite number of poor wretched human beings crammed together in unventilated ships, and without the benefit of any of the humane regulations proposed by the Bill.

Mr. *Brickdale* said, that, connected as he was with gentlemen immediately concerned with the African Trade, he had felt it his duty to second the motion; but his own private sentiments led him to wish that the Trade were put under some regulation; that regulation, however, he conceived could not be hastily agreed on

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with any prospect of success. It would require more cool investigation, than the House could give it during the present session.

Mr. *Whitbread* very humanely urged the House to go on with the Bill.

Mr. *Rose* desired gentlemen, before they resolved to continue a debate on so important a subject, to ask themselves whether it became the cause, or would tell in its favour without doors, when it should be known that it was agitated in so thin a House? He therefore advised, that all parties should agree to let the discussion stand over for the morrow.

The *Attorney General* observed, that the House had, in a manner, been taken by surprise, no notice having been given that there was any intention to bring forward the motion. He said that there might be a stop put to the House proceeding to debate a minute longer, by moving to have it counted; but it would be more decent in itself, and more respectful to a subject on which the public attention was fixed, that the matter should be put an end to, by withdrawing the motion.

Upon this, sir Charles Middleton moved that the House might be counted, which being done, and forty members not being present, an adjournment took place.

May 28. Lord Penrhyn brought up a petition from the merchants and traders of Liverpool, stating the long existence of the African Slave Trade; the essential benefits the country had derived from it; the encouragement that the legislature held out to individuals to embark their fortunes in it; and the injury that they must necessarily suffer from any sudden measure being taken respecting it. Having heard, therefore, that a bill was in the House for the purpose of operating a partial regulation, which they conceived to be founded on facts that were not true, they prayed to be heard by themselves and their counsel against the said bill. The petition was ordered to lie on the table, and the petitioners were ordered to be allowed to be heard by their counsel on the second reading of the Bill. Mr. Ewer brought up a petition from the merchants of London to the same effect with the Liverpool petition, and similar motions were put upon it, and agreed to.

Sir *William Dolben* said, that he was far from harbouring the most distant intention of thwarting the prayer of the petitioners. All he desired was, that the Bill might meet with fair play, and that if evidence against it was listened to, he might be permitted to bring evidence in support of it. The purpose of his introducing a bill on the subject of the Slave Trade was not to bring forward the consideration of the immorality of that Trade; it was not indirectly to accelerate a premature discussion of the general question concerning the policy and propriety of continuing the Slave Trade under certain regulations, or of abolishing it altogether; but to call the attention of parliament to a particular and distinct object, which might properly be made the ground of immediate regulation, without involving any of the larger or more general considerations to which the subject might lead. It was, in fact, to save the lives of hundreds and thousands that must necessarily perish, if some such regulations as he had adverted to, were not adopted without delay. When he had first asserted, that so many lives were liable to be lost by the continuance of the practices which had obtained in the transport of the natives of Africa to the West Indies, he had been called upon to bring proof of his assertion. He had answered, that he was not then prepared to bring forward the necessary evidence, but that he would undertake to do so on a future day. It was now some days since he had declared in his place, that he was ready to produce many of the most respectable characters; in short, witnesses out of number, and of almost every description of persons likely to be conversant with the subject, who would prove at the bar, beyond all contradiction, that the grievances he had complained of actually existed, and that there was such a stowage of the persons of the unfortunate Africans, on board the transport vessels, for the sake of saving a penny, as must shock the humanity and rouse the indignation of that House, and of every man of feeling in the country. These miserable wretches had not a yard square allowed them to live in, while, in that narrow space they were loaded with shackles, and fastened hand to hand and foot to foot to one another. When he had said he was ready to prove these facts at the bar, he had understood, that the hon. gentleman, who had appeared to be adverse on the first mention of the Bill, had declared, they would not object to the Bill, if such facts could be substantiated, which they did not believe was very probable. He would do

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them the justice to observe, that they had only made that declaration on behalf of themselves, and had reserved the right of farther opposition, in case their constituents should so instruct them. It now appeared, their constituents had so instructed them, and two petitions had that day been presented. If the petitioners could controvert the facts he had stated, they ought to be heard; but if the throwing in petitions, and desiring to be heard by counsel, was merely a manœuvre to put off his question for another year, in order to enjoy another year's advantage of such inhuman practices, it would be a shameful insult on that House, and no answer at all to those who declared they were ready to bring evidence to the bar to prove the facts. He had heard several extraordinary things asserted in defence of the subsisting mode of stowage of the Africans on board of ship, in their passage to the West Indies. Many had said, that the ships most crowded were the most healthy, and others, that the time passed on board a ship, while transporting from Africa to the colonies, was the happiest part of a negro's life. Strange as these assertions were, they had been gravely urged as excuses for the prevailing practices, although it was undeniable that the negroes were in shackles and bound hand and foot all the time of their passage. He had no object whatever but the cause of humanity: he had all along meant to avoid any thing like personality, and he trusted that he had done so that day. He had a very great respect for the merchants of Liverpool and London. He should be a most ungrateful man, if he did not profess and feel liberally towards the former, since he had been most hospitably entertained at Liverpool. Indeed, he believed that he had eaten more turtle there, than he had ever eaten in the course of his life; but he would readily give up their turtle and burgundy, for mock turtle and plain port, if they would consent to forego some part of their profits, for the sake of accommodating the poor negroes better while on ship-board The merchants of Liverpool, he verily believed, were not aware of the hardships the natives of Africa suffered while on board of their ships; but in order to enable them to judge of the pleasantness of their situation, he said, let some of them take a summary voyage to Africa and the West Indies, under similar circumstances. And, as he understood there were generally two houses concerned, let them unite hand to hand, and foot to foot, as well as unite interest and purse, and thus chained to one another, let them continue upon the waves during dangerous storms and perilous gales, rolling about with shackles upon them, in their own sickness and its consequences, fluxes, pestilential distempers, and the danger of premature death! After experiencing those extraordinary proofs of happiness, let the Liverpool merchants come to the bar of the House, and substantiate their assertions, and he would readily give them credit, and so, no doubt, would the House! Sir William concluded with declaring, that he hoped the House would not suffer any artificial or interested delay. He was ready to move that the Bill be read a second time on Friday, or Monday, or any other early day, so that he should not be deprived of the opportunity of passing it during the present session.

Mr. *Martin* said, that when the subject was last under the consideration of the House, he had heard a noble lord talk of the calumnies that were cast upon those concerned in the Slave Trade: now, he could not conceive what motive those who professed themselves friends to the present Bill could have, to calumniate the merchants of Liverpool and London. For his part, he had the highest respect for the character of a British merchant. Did gentlemen who wished to put off the present Bill, consider that several thousand lives might be saved by its being carried? If so, should they persist in opposing it? He hoped gentlemen would reflect on the importance of the subject. If after the facts that had been stated, any gentlemen could refuse to give their consent to the present Bill, let them retire to rest "with what appetite they may."

Lord *Penrhyn* said, that the hon. gentleman had asked, what grounds there could be for opposition to the Bill? For his own part, he could declare, that his constituents, under the sanction and faith of parliament, had continued for many years to carry on the African Trade; that they had every reason to think it a legal Trade, and such as they might pursue without imputation of inhumanity. Such ships as had not yet sailed, were equipped and ready, and his constituents thought it hard that they should be prevented from sending them on their voyages, when they had committed no crime, and because the credulity of some persons had been imposed upon. Was that no ground for opposing the

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Bill? The hon. baronet had talked a great deal of the petitions, and had stated many strong facts against the petitioners. After what had been said, might not the petitioners have a wish to clear themselves; and was not that a reasonable wish? The hon. baronet doubted whether they would come to the bar. Did he think they would not have their characters cleared; most undoubtedly they would. The hon. baronet had urged the great necessity of passing his Bill in the present session. What effect could it produce? The greatest part of the ships employed in the African Trade were already sailed; it could not therefore have any operation upon them; and those captains who were yet to sail, after what had passed in that House would be cautious in what they did from principles of prudence, if they were not influenced by motives of pure humanity. What inducements any persons might have to disperse calumny he knew not, but he was certain the merchants of Liverpool had been grossly calumniated. The petitioners considered the Bill as an attack upon them, which was not justified by either fact or necessity. It singled them out from every other description of merchants, and therefore, feeling it to be as unwarrantable as it was ill timed, they were determined to dispute its principle throughout.

Mr. *Pitt* observed, that the noble lord had said the petitioners were determined to dispute the principle of the Bill throughout: now, he would take upon him to assert, that no man could dispute the principle of the Bill; for what was the principle, but an endeavour to prevent a certain number of persons, sent on board of ships from Africa to the West Indies, from being ill-treated during their passage? The petitioners might dispute the facts on which the Bill was professedly founded, and question whether they existed at all; or, if the facts were admitted or proved, they might dispute the propriety of the regulations contained in the Bill; but no man could say, that if the facts actually existed, it was not proper to meet those facts with adequate regulations. For his own part, he should not agree to any regulation the Bill might contain, which opposed indirectly the Trade itself, when the general question of its abolition was not before the House. With regard to the present Bill, its object was such as the House were bound to take up; because, having resolved to suspend the consideration of the general question till the next session, it became their duty to provide against the possibility of any abuse arising in consequence of their suspension. He did not know that any of the abuses that had been stated existed, but he saw a possibility of those abuses, or some other arising out of their latter resolution; and surely the petitioners had no right to object against a Bill calculated to prevent the growth of such abuses. He wished, therefore, that the motion had been for the petitioners not to be heard against the second reading, but in a committee, where the facts which they might reasonably question, or the propriety of the regulations could alone be gone into. In his mind, the best mode parliament could adopt, would be, to keep the subject entire till the next session, and, therefore, he should wish to make as little alteration in any part of the conduct of the Trade as possible; but if, upon inquiry, it was proved that it was carried on in a manner free from abuse, merely to take care to secure that it should so continue to be carried on till next session.

Mr. *Fox* could not see without concern the species of opposition which had arisen against the present Bill. From what he knew of his noble friend's mind, he was sure he did not mean to oppose the principle of the Bill, but to dispute the truth of the facts alleged as the reasons and grounds of the Bill. That being, he was persuaded, his noble friend's opinion, he wondered he should make that a reason for opposing the Bill upon the second reading. Such a Bill was not to be answered by high sounding words, and by saying, these abuses that are stated to prevail are calumnies. Out-door reports might be called calumnies; but no man could call those calumnies, which were facts stated by a member of that House, in his place, who was ready to call witnesses to the bar, to prove the truth of them. That being the case, he, for one did assume the facts, and it would be extremely unjust to the petitioners, were he not to make such assumption. He did not think there was a man in that House, who wished an opposition to the Bill, if the facts stated by the hon. baronet were true, and therefore the petitioners should have said—what? Not that they meant to dispute the principle of the Bill, but desired to come to the bar of that House to disprove those facts; and the time to do that was when the Bill should be in a committee. He could not, therefore, avoid observing, that the mode of applica-

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tion which the petitioners had adopted was somewhat suspicious, and looked like a desire to delay the passing of the Bill, rather under the hope, in consequence of the advanced period of the session, to get it thrown out, than from any confidence in their being able to prove, that the alleged abuses did not exist. The Bill might undoubtedly be a bad bill; the facts on which it was grounded might be false; the regulations of the Bill might be unwise, and unfit to be adopted; either might be wrong or right, but the Bill ought not to be postponed. It was not a measure on the African Trade in general, but a measure of a separate and distinct nature, which, that House having resolved to suspend the consideration of the whole of the general question, were bound to adopt, if, upon examination before the Committee, it could be made applicable to its object. The right hon. the Chancellor of the Exchequer had anticipated a good deal of what had suggested itself to his mind, when he remarked, that, however much inclined they might be to believe that the persons employed in the branch of the African Trade then in question, would not, after what had passed, venture to countenance or practice abuses respecting the treatment of the negroes from Africa to the West Indies, they ought not to confide in the prudence of individuals in a case of importance, but apply a proper legislative security as a guard against the possibility of abuse. Mr. Fox asked, if every gentleman did see that there would be great enterprises and speculations in any trade, liable to a less odious construction than the Slave Trade, if, from any proceeding of that House, there was an apparent probability that the Trade, whatever it might be, would be either abolished, or so regulated during the course of the ensuing session as to be effectually altered. That being the case with the African Trade, it was the undoubted duty of that House to take care, if no abuse prevailed in the conduct of the Trade at present, that no abuse should prevail in it for the ensuing six months, and even that, if any abuse did prevail, greater and additional abuses should not be practised. He thought that the fair way for those gentlemen who conceived that the facts stated were not true, would be to say, "Bring forth your facts, that we may see what those facts are, and perhaps we shall prove that you have been misled, and when you thought yourself well-informed." The hon. baronet had asserted facts which might or might not be true: his noble friend had said, they are not true; but he didnot say, "Let us go into them, but let us not oppose the second reading of the Bill." Mr. Fox said he wished the petitioners to be heard before their Committee, where they might bring forward their evidence with effect. He had heard a great many facts of a similar nature with those stated by the hon. baronet; but he sincerely hoped that upon examination, they would be found to be greatly exaggerated. He hoped and believed so. In the first place, he entertained the presumption, that mankind, who certainly were not naturally cruel, would not be cruel where there could be no end; and, in the next, he could not conceive that the facts alleged were true to the extreme extent that was alleged. If any thing could convince him of the badness of the cause of those concerned in the Slave Trade, it was the sort of arguments that were resorted to for its defence. The hon. baronet had stated some of these, and he had heard a variety of others of a similar nature; not only the situation of the negroes on their passage had been extolled as a happy situation, but it had been confidently asserted, that in the West Indies they were happier and better treated than the common subjects of this country. Such a mode of reasoning led him to suspect that the cause would not warrant better arguments, and thence he naturally inferred, that it was almost indefensible. There was another sort of argument which he must deprecate, and this was, that the present Bill was an attack on the merchants of Liverpool. If that species of reasoning were allowed, there would be an end of every possibility of reform, let the abuse to be regulated be ever so enormous. In the present instance no such attack was meant, nor was there any thing personal mixed with the consideration of the Bill, the object of which was not past animadversion, but future regulation. Its object was the measure, and not the men connected with it.

Mr. *Gascoyne* said, that when the subject was first agitated in that House, he had entertained but two wishes respecting it; his first wish had been, that the subject might undergo a full, fair, and temperate discussion; and as he was persuaded there would not be time for the House to obtain sufficient information in the course of the present session, for that purpose, he had closed with the right hon. gentleman's

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proposition to postpone its consideration till the ensuing session. His second wish had been, that the question might be reserved entire, and not prematurely broken in upon. Since, however, he found it to be the wish of the House to inquire into that part of the subject, which referred to the treatment of the Africans during their passage from their own coasts to the West Indies, he was willing to meet gentlemen on that investigation. The hon baronet had asserted, that a variety of abuses existed in the treatment of the negroes on ship-board, but he was informed that no such abuses existed. On that question, therefore, they were fairly at issue.

At length it was settled, that the Bill should be read a second time on the 30th instant.

June 2. The House being in a Committee on the Bill, Mr. Whitbread in the chair, counsel were called to the bar.

Mr. *Piggott* opened as counsel against the Bill, and began with stating himself to be under a considerable difficulty in respect to the sort of case that he ought to lay before the Committee, in consequence of the patrons of the Bill not having previously stated the evidence they meant to call in support of it. He desired to be instructed by the Committee, whether he should proceed to prove, that if the number of negroes to be shipped were to be governed by the tonnage of each versel, and that only one was to be allowed to each ton, the Trade would be impracticable; or whether he was to make out a case of another kind, and prove a negative, by showing from evidence, that the inconveniences which had been talked of did not exist?

Mr. *Fox* said, that in his opinion, the counsel against the Bill had their option of one of two modes of proceeding, by adopting either of which they might equally promote the interest of their clients; they might either prove to the Committee, that any reduction of the number of Africans now put on board each vessel, would go the length of ruining the Slave Trade altogether, or they might, by evidence, instruct the Committee how to fill up the blanks of the Bill, by showing what was the number of Africans that they might be limited to, without putting those who were concerned in the Trade in any danger of being material sufferers by the regulation; or if the counsel thought it was for the benefit of their clients, they might wave all opposition to the Bill then, and after letting the Committee fill up the blanks, oppose it on the report, and show that the Bill, filled up as it was, would produce such an effect on the Trade in general, that it ought not to pass into a law.

Mr. *Pitt* concurred in opinion with Mr. Fox, but hoped, after the opposers of the Bill had of themselves first desired to be heard against the Bill at the second reading, and afterwards consented to be heard against it before the Committee, that they would not again alter their mode of proceeding, and postpone the evidence they meant to call still longer.

Mr. *Gascoyne* spoke of the difficulty the merchants laboured under, having first to state evidence against the Bill, and that evidence remaining to be afterwards counteracted by evidence to be brought in support of the Bill.

Sir *W. Dolben* conceived it to be incumbent on the petitioners to state in argument by their counsel, or in evidence by their witnesses, whatever they had to say against the Bill. He should afterwards proceed to lay evidence in support of the Bill before the Committee.

The counsel were directed by Mr. Whitbread to proceed; and they called Mr. Norris to the bar, who stated himself to have been in the African Trade about five years, but that he neither had at present, nor meant to have, any farther concern in it. Mr. Norris underwent an examination of upwards of four hours continuance, after which the chairman was directed to report progress, and ask leave to sit again.—On the following day, and also on the 12th and 16th, the House went again into the Committee when several witnesses were examined.

June 17. The House went again into the Committee. The evidence on the part of the petitioners being closed, the Committee proceeded to fill up the blanks. Mr. Pitt moved that the operation of the Bill be retrospective, and that it commence from the 10th instant; which was agreed to. When the Committee came to fill up the blank respecting the tonnage of the ships, and the number of the Africans to be carried in the different sized vessels,

Sir *W. Dolben* proposed to apportion five men to three tons, of every ship of 150 tons burthen, or under five feet be-

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tween decks, with a cabin fitted up for the reception of slaves; three men to two tons in all vessels above 150 tons, with equal accommodations; and one man to one ton, in all other vessels, without such accommodations. Sir William said this proportion diminished a little upon the average of three years; that he was aware it was not equal to two men to a ton, but that no man in his senses could believe it to be really detrimental to the Trade.

Mr. *Gascoyne* said, that less than two men to a ton was less than could be consistent with the continuance of the Trade. Such a mode of filling up the blanks would prove an abolition of the Trade, and therefore he must take the sense of the Committee upon it.

Lord *Penrhyn* contended against depriving persons, so interested as his constituents were in the Slave Trade, of their rightful advantages by an "ex post facto" law. The measure would abolish the Trade, as far as the present traders were concerned in it. On the African Trade, it ought to be remembered, that two-thirds of the commerce of this country depended. The Committee might prevent Great Britain from carrying on the Trade, but they could not prevent other countries from carrying it on: they would therefore not befriend the Africans.

Sir *W. Dolben* affirmed, that he had not asserted things incapable of being substantiated by proof. He was ready to call witnesses, and adduce evidence, both by documents and facts.

Mr. *Gascoyne* wished that the witnesses in support of the Bill had been produced; though to have them then, might be unparliamentary.

Sir *W. Dolben* said, they were ready to appear, and were very respectable people.

Mr. *Beaufoy* said:—The remarks of the noble lord in support of the veracity of the witnesses whom the friends of the African Trade thought fit to call to your bar, I am not inclined to dispute. Their evidence is clear, the facts they have established are important, and the natural conclusions from these facts, however opposite to those which they intended should be drawn, are, in my judgment, decisive on the case. On this occasion two questions arise: the first is, Whether in the present mode of transporting to the West Indies the negroes which are purchased in Africa, such abuses exist as require the restrictions of law? the second is, Whether the restrictions which this Bill proposes to enact, will or will not amount to an abolition of the Trade? These are the two points to which the counsel who pleaded this day at your bar, on behalf of the African merchants, directed his principal attention, and they do in reality comprehend the whole of the business before us.

In his arguments on the first of these points the counsel declared, that the appellation of abuse could only be given to such a mode of conveyance as is dangerous to the lives or health of the negroes. I accept his definition, narrow as it is, and shall make it the basis of my reasoning. To the question then, is the present mode of transportation compatible with a due regard to the lives and healths of the Africans, what has been the evidence at your bar? what the language of witnesses? They told you, that five feet six inches in length, and sixteen inches in breadth, was as much as their practice, upon an average, allotted to each slave; that this space was all the room they could allow for the African and his irons, and that in order to accommodate him to this extent, which they described as liberal, recourse is had to every possible contrivance. In the first place, the lower deck is entirely covered with bodies: in the next, the heighth between the floor of that deck and the roof above (a heighth which they acknowledge seldom amounts to five feet eight inches) is divided by a platform, which is also covered with bodies. Thus the distance from the floor on which some of the Africans are laid, to the platform on which others are spread, is but two feet in many cases, and but two feet and a few inches in the rest; and from the platform to the upper deck, which constitutes the roof, there is but a similar space. The same ingenuity of package, and perfection of contrivance, is employed according to the witnesses' account, in filling every other part of the vessel in which a human body can be stowed. Such is the mode of conveyance.—Now, what from the evidence of the witnesses at your bar (an evidence given with reluctance, on a cross-examination, and therefore of decisive credibility) is the effect of that conveyance on the lives and health both of the negroes and the seamen? "I do confess," says one of the witnesses, "that when I was master of the Tartar, I lost in one voyage a third of my seamen, and 120 negroes, which was also a third of the whole." Was this the total of your loss?

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"I cannot say it was, 12 negroes perished by an accident, they were drowned." Had you no other mortality, except that of the 120 negroes, and that of the twelve? "No other upon the voyage, but I lost between 20 and 30 negroes, by different diseases, before I left the coast."—Thus it appears, that 120 Africans, being a third of the whole, died upon the voyage, that 12 more were devoured by different diseases before his cargo was compleat. Such is the evidence of one of the witnesses at your bar; yet the very counsel who called that witness there asserts, that no abuses deserving the notice of parliament, none which endanger the lives or affect the health of the negroes, exist in the African Trade. The counsel, indeed, who is paid by his clients, and who does not conceive that his honour is pledged to the truth of his arguments, or that his character is concerned in the justice of his cause, may think himself at liberty to contradict the common feelings, and affront the common sense of mankind; but I cannot persuade myself, that such of the members of this House as have hitherto opposed the Bill, will venture on the same desperate assertions. On this point of mortality, what is the language of the other witnesses? Though interested in the Trade, and parties against the Bill, their confession is, that of the negroes of the windward coast, who are men of the strongest constitutions of any which Africa affords, no less, on an average, than five in each hundred perish in the voyage—a voyage it must be remembered of but six weeks continuance. In a twelvemonth, then, what must be the proportion of the dead? no less than 43 in every hundred; 17 times the usual rate of mortality; for all the estimates of life suppose, and Dr. Price expressly declares, that except in very particular situations (of which as we find from the history of Captain Cook's Voyages, the sea is not one) no more than a fortieth of the people, or two and a half in the hundred die within the space of a year: such is then the comparison. In the ordinary course of nature the number of persons (including those in age and infancy, the weakest periods of existence) who perish in the course of a twelvemonth, is at a rate of but two and a half in a hundred; but in an African voyage, notwithstanding the old are excluded, and few infants are admitted, notwithstanding the people are in the firmest period of life, the list of deaths presents an annual mortality of 43 in a hundred: it presents this mortality even in vessels from the windward coast of Africa; but in those of Bony, Benin, and the Calabars, from whence the greatest proportion of the slaves are brought, the mortality is increased by a variety of causes, of which the greater length of the voyage is one, and is said to be twice as great, which supposes that in every hundred the deaths annually amount to no less than 86. Yet even the former comparatively low mortality, of which the counsel speaks with satisfaction, as a proof of the kind and compassionate treatment of the slaves, even this indolent and lethargic destruction gives to the march of death 17 times its usual speed: it is a destruction, which, if general but for ten years, would depopulate the world, blast the purposes of its creation, and extinguish the human race. After these proofs of the horrors of an African voyage, what shall we think of the persons who have the confidence to tell you that the conveyance of the Africans from their native land, is a mercantile concern with which you should not interfere, and while they presumptuously caution you against an officious intermedling, likewise tell you that you cannot be judges of the subject—"You form," says the counsel, "your opinion of the feelings of the negroes by those that belong to yourselves; a mistaken and inapplicable test; for though in their situation you might be miserable, yet to them the circumstances of the voyage are not inconsistent either with comfort or happiness." Stronger still upon this point is the language of the witness. We, whose feelings have never known the hardening influence of an African sun, naturally thought that if a man, be his complexion what it may, be suddenly torn from his family and friends, and be violently wrenched from his native soil, his suffering must be great; and that, if to these afflictions be added the perpetual loss of freedom, his misery must be intense. "Just the reverse," say the witnesses; "the direct contrary is the fact; the voyage from Africa is the happiest period of his life." I should almost be tempted to conclude from the evidence at the bar, that the fetters on the hands of the Africans and the irons on their feet, are intended to check the wild expressions of tumultuous and frantic joy, rather than counteract the gloomy purposes of despair. Some of us imagined, that when to the burning atmosphere of the Torrid Zone is added the suffocating heat of

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numbers crouded into a narrow space, the suffering must be dreadful; but here again we were mistaken; so much so, indeed, that the counsel treated the very idea as ridiculously delicate and finical; and the witnesses say, that the additional warmth is the very thing which the Africans desire; they accept it as a boon; they solicit it as an enjoyment. One would think from the evidence at the bar, and from the arguments of the counsel upon it, that the solid pestilence, the thick contagion, the substantial rottenness of an African ship is congenial to the constitution, and exhilarating to the spirits of a negro. Could any thing add to the indignation we feel at such a Trade, conducted in such a way, it would be the preposterous arguments by which that Trade is defended.

Among the gentlemen who oppose this Bill, there are some who think its operation unfriendly to the interests of our West India settlements; yet, even they when they heard from the witnesses (whose testimony often acquired additional strength from the reluctance with which it was given) the ravages of this remorseless Trade, even they must, I am confident, have felt an earnest wish that the necessity of the traffic did not exist. May I then be permitted to point out to the West India settlements, not presumptuously, but with anxious and ardent wishes for their welfare, a line of conduct that would soon supersede the necessity of the negro traffic, and promote, at the same time, the interest of the planters? I think with them, that in all regulations for the remedy of evils of great magnitude and of long establishment, especially of those with the existence of which the rights of property are blended, the spirit of reform should be guided by a temperate and well-advised zeal, that considers what is attainable as well as what is desirable, and confines its efforts to practicable good. I also think with them, that in all such regulations of the African Trade for negroes as are not, like those of the present Bill, confined to the mode of their conveyance, the provincial legislatures of our West-India settlements should undertake the conduct of the business. Now if, as the wisest maxims of policy suggest, those legislatures should impose a tax on every negro imported, and should grant a countervailing premium on creole negroes, born in the West Indies, and produced in a healthy state, at the age of ten years, the necessity of new importations would speedily be removed, especially if in aid of these regulations (the efficacy of which might otherwise be retarded by negroes illicitly imported) a register of slaves should be established, and a provision made that all who are not enrolled shall be absolutely free. To the provincial assemblies who shall thus destroy the asserted necessity, and therefore the existence of the traffic in human beings, immortal honour will be due, and still more ample will be their fame should they add to the liberal policy of this measure the wise and generous expedient of raising their negroes from a state of slavery to that of regulated vassalage; they will then be revered as the distinguished instructors of their country, and the friends and benefactors of human kind.

But I have wandered too far from the immediate subject of debate. In the outset of my argument I observed, that the counsel has not only attempted to show that the sufferings of the negroes in their passage is merely ideal, and the mortality too trifling for notice, but that the present Bill, in professing to regulate, would really abolish the Trade. With what success he attempted the establishment of his first proposition I have already examined, the other remains to be considered. The Bill proposes to enact, that the number of Africans who shall be carried in any vessel shall be restricted by a rule that is founded on the joint consideration of the size of the vessel, and the accommodation with which it is furnished. A more reasonable provision, or one, perhaps, that in imposing a restraint on the eagerness of avarice, more effectually consults the interest of the merchant, is not to be found in the polity of nations. Yet to this provision the witnesses object as ruinous to their Trade; for the French, say they, our rivals, in the African commerce, will be subject to no restraint, and as the merchant best understands the nature of his own concern, and the mode of conducting it to advantage, their freedom opposed to our restrictions will give them an undoubted superiority; a superiority that will be rendered still more decisive by the bounty which the French government bestows. Such are the arguments of the counsel and the witnesses. To their first remark, "That the merchant best understands the means of commercial profit," my anwer is, that avarice, though always an eager, is not always a clear-sighted and well-judging passion; for

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under its government the probability of exorbitant loss is often risked on the slightest prospect of exorbitant gain, and therefore it is, that in the African Trade, (a lottery of the worst species) the rules of prudence are often as much neglected as the rights of humanity. On this principle, then, there is reason to believe, that the present Bill will not, on the whole, be injurious to the merchant; but even the contrary supposition is not a sufficient argument against it: for the legislature is not bound to uphold commercial profit at the expence of humanity and justice. "But the French, our ancient and inveterate rivals," says the counsel "will possess themselves of the Trade which you relinquish, and will thus succeed to one of the principal branches of your naval strength as well as of your commerce." Does then the counsel conceive us so ill informed on the subject, as not to know that the Trade to Africa has invariably proved, not the nursery, but the grave of the British seamen; and that the number of our countrymen who are yearly sacrificed to this dreadful traffic, constitute such a waste of life as no commercial gain is able to compensate? In this view of the subject then, we have no reason to dread the industry and enterprising spirit of the French. But should we admit that, in a mercantile view, the national value of the African Trade is such as the counsel has described, what proofs has he brought that, in consequence of the present Bill, that Trade will be given to our rivals? Is he not aware that of the 80,000 Africans whom our ships annually convey, not more than one half is sold for the use of our own West India settlements. That moiety therefore, if we choose to retain the Trade, is beyond the reach of hazard: for admitting that the restraints imposed should diminish the number of negroes transported in each vessel, and that the price required by the merchant for those whom he does convey should, for this reason, be somewhat raised, it follows indeed, that the cost to the British planter may be greater than at present; but it does not follow, nor is it in any respect true, that the merchants of France can seize upon the commerce. Nothing is in question, then, but that part of the Trade the least considerable of the two, which is carried on for the supply of the foreign plantations in the West Indies; and even that part of it, if the advantages of a reduced mortality be weighed, is exposed to no other diminution than that which, independently of this Bill, may arise from the exorbitant premiums which at this time are given by the French government for the encouragement of its trade to Africa.

Hitherto I have argued on the supposition of the counsel, that the Trade to Africa will continue to receive the countenance and protection of the French, but there is reason to think, that, let the ultimate decision of the British Legislature, on this hideous traffic, be what it may, its existence among the French will speedily be abolished. Already the best and most respctable part of their great community, all their philosophers, all their men of science, all their literary men, are earnest in their wishes for its extinction; and two of the greatest ministers her government has ever known, Turgot and Neckar, have recorded their fixed abhorrence of its cruelty and guilt. A noble lord, whose judgment on this subject is undoubtedly the reverse of theirs, smiles, I observe, at the mention of literary men; but allow me to tell him, that their influence must be great in a country in which the empire of opinion is all things. Already we have seen them accomplishing more difficult events than the abolition of a traffic, which is not less disgusting to the reason, than hateful to the feeling of our nature; a traffic which exists but by human suffering, and the gains of which are constantly polluted with blood. Has the noble lord forgotten the success with which, in the persons of the two great men I have mentioned, they opposed the authority of science to the sternness of power, and the rectitude of philosophy to the corruptions of a court? Does he not know that they have actually effected what none but themselves have, at any time, ventured to attempt; for within the domains of a cruel religion, they alone have erected an altar to mercy? Does he not know that they alone have instructed their countrymen to assert their violated rights, and reclaim their ancient constitution? Does he not know that to them it is owing, that at this very hour, to the astonishment of Europe, the voice of freedom is heard in the inmost recesses of the palace? Again I repeat, that let Britain determine as she will, the guilt and infamy of this horrid traffic will not long be endured in France. Thus I have considered the various objections that have been stated to the Bill, and am ashamed to reflect that it could be neces-

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sary to speak so long in defence of such a cause; for what, after all, is asked by these regulations. On the part of the Africans, the whole of their purport is, that those whom you allow to be robbed of all things but life, may not unnecessarily and wantonly be deprived of life too. On the part of your seamen, all that is suggested is, that after they have hazarded their lives in your service, and fought the battles of their country, you would not, when poverty compels them to accept a birth in an African ship, allow them to be exposed to useless dangers, or be consigned to unnecessary death. To the honour, to the wisdom, to the feelings of the House I now make my appeal, perfectly confident that you will not tolerate, as senators, a traffic which, as men, you shudder to contemplate; and that you will not take upon yourselves the responsibility of this waste of existence. To the memory of former parliaments the horrors of this traffic will be an eternal reproach; yet former parliaments have not known as you, on the clearest evidence, now known, the dreadful nature of this Trade. Should you reject this Bill, no exertions of yours to rescue from oppression the suffering inhabitants of your Eastern empire; no records of the prosperous state to which, after a long and unsuccessful war, you have restored your native land; no proofs, however splendid, that under your guidance, Britain has recovered her rank, and is again the arbitress of nations, will save your names from the stigma of everlasting dishonour. The broad mantle of this one infamy will cover with substantial darkness the radiance of your glory, and change to feelings of abhorrence the present admiration of the world. Pardon the supposition of so impossible an event; I know that justice and mercy are the constant attributes of your character, and that the lustre of their brightness is such as will endure for ever.

Viscount *Belgrave** animadverted with much ability upon the cruelties of the Slave Trade, which had, to his mind, been fully proved by the witnesses at the bar. He noticed the opposition which had been made to the Bill, and represented it as of that nature which he hoped every gentleman warmed with humanity would condemn. If the present mode of carrying on the Trade received the countenance of that House, the poor, wretched, unfortunate African would not only curse the womb that brought him forth, but would doubly curse the British nation, whose diabolical avarice rivetted the chains of his slavery and his miseries. He trusted that the hon. members opposite would urge no farther their opposition to the Bill, but that they would join with the House in an effort to enlarge the empire of humanity, and that while they were stretching out the strong arm of justice to punish the degraders of British honour and humanity in the East, they would, with equal spirit, exert their power to dispense the blessings of their protection and liberty to the poor Africans, who were serving them in the West.

Mr. *W. Smith* strongly supported the Bill, and pointed out what he considered as glaring contradictions in the evidence.

Mr. *Pitt* declared himself most unequivocally in favour of the hon. baronet's motion, and expressed his conviction, that the regulation proposed would not tend to the abolition of the Trade; but if it did even go to the abolition of the Trade, he had no hesitation to declare, that if the Trade could not be carried on in a manner different to that stated by the hon. members opposite him, he would retract what he had said on a former day against going into the general question, and, waving every other discussion than what had that day taken place, give his vote for the utter abolition of a Trade which was shocking to humanity, abominable to be carried on by any country, and which reflected the greatest dishonour on the British senate and the British nation. The Trade, as proposed to be carried on by the petitioners, was contrary to every humane, every Christian principle, and to every sentiment that ought to inspire the breast of man. He hoped that the House, being now in possession of such information as never before was brought, would, in some measure, endeavour to extricate themselves from that guilt and that remorse which every man ought to feel for having so long permitted such cruelties to have been suffered by human beings. He wished to ask gentlemen what must be their feelings, were half the unfortunate Africans now about to be purchased by British ships on that coast, to suffer the cruelties and the deaths of many of those before shipped? He was confident that the House would support him in any measure to snatch those unfortunate beings from the jaws of destruction, and from

* The present earl Grosvenor A. D. 1816.

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the iron hand of unlimited oppression: for such purpose he should propose a clause to cause the regulations of the present Bill, should it pass into a law, to be strictly observed by those employed in the trade, if notice of the Act could be proved to be given to them by a vessel which should be dispatched from the Admiralty for the purpose of affording them such information. By such regulation taking effect after cargoes were laid on board for a greater purchase of slaves than the Bill would allow, he was fully aware that a loss would be sustained by the sufferers of such cargoes: such loss he computed to be about ten per cent., and he was extremely willing that it should be made good to the merchants, and doubted not but the House would agree with him in such indemnification, even if it went to 15 per cent., as the whole would not in such a case, he believed, exceed 12 or 15,000*l.*

The Committee divided on sir W. Dolben's proposed amendments: Yeas, 56; Noes, 5. The other blanks were filled up, and the Bill was ordered to be reported to-morrow; when it was accordingly reported, read a third time, and passed.

Proceedings upon the Impeachment of Sir Elijah Impey.] May 27. The order of the day being read for going into a Committee to consider farther the charges against sir Elijah Impey, sir Gilbert Eliott moved, "That the Speaker do now leave the chair."

The *Attorney General* contended, that the charge relative to the Patna cause, if it was any charge against sir Elijah Impey, must prove equally a charge against the whole court. In 1780, the subject of the charge became an object of parliamentary consideration, and an act had passed upon it. The East India Company had agreed to give security, in case the sentence was not affirmed by the privy council in the course of five years, to pay the parties 30,000*l.*, and that day he understood, the solicitor to the East India Company had received notice of its being set down for hearing. He asked, therefore, whether that House would wish to proceed in the discussion of a cause that was to come on for hearing before the tribunal most proper to decide it?

Mr. *Anstruther* said, that his reason for wishing the House to proceed was, that the cause was totally at an end, and that no party had any longer any interest in it. In support of this assertion, he recapitulated the circumstances attending it. He maintained that the bond entered into by the East India Company, under the Act of 1781, was forfeited, since the five years expired in January 1788. He conceived the whole business to be a collusion between sir Elijah and the Company; and he stated the charge as criminal, because sir Elijah, acting corruptly, (he meant not from pecuniary motives) had overset the whole judicature of India, for the sake of extending his own jurisdiction. If it was really too late in the session to go through with the charge, he should think that a fit reason for putting it off; but he was far from being of opinion that such was the state of the case.

Mr. *Grenville* observed, that the hon. gentleman had stated the strongest reason for putting off the charge, when he mentioned the late period of the session, which certainly was a strong objection to the going on with it. He could not think there was any ground for the suspicion of collusion between the Company and sir Elijah. He added other reasons for being of opinion that the charge ought not to proceed, while it was going to another tribunal, though that circumstance, he admitted, by no means debarred the House from exercising its functions respecting the charges at a future period.

Mr. *Burke* observed, that the whole reminded him of a story of sir Robert Walpole, who, retiring from the fatigues of public business, desired his son to get him a book to read to him. The son asked him, on what subject? Should it be history? No, said sir Robert, not history; there can be no truth in that. He admitted philosophical speculations, travels, and Pliny; but history, he said, could not be true. Mr. Burke applied this story to Mr. Grenville's argument, and talked about young statesmen, who were filled, as it were, with wine, and had all the body and strength of it; while older politicians were obliged to take up with the lees, which were somewhat stale and sour. He next stated all the particulars of the Patna cause, in the investigation of which he had many years since taken a considerable part. The East India Company had originally brought it before that House, and with great earnestness had urged them to investigate it. They had caught the Company's warmth, and felt with equal ardour. They took it up, and considered it as so

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outrageous and bad, that no appeal could be expected. An act was passed for the immediate relief of the magistrates of Patna, and the Company gave bond to have the cause heard before the privy council. Mr. Burke stated the manner in which the Bill had been curtailed in the House, declaring their noble had been reduced to nine-pence. But, as a little practical good was better than mountains of speculative advantages, they had patiently submitted to hold fast by the remainder that was left of their bill. The East India Company, who had been so hot upon the business, grew cool directly afterwards. The first thing they did was to prevaricate, and leave the magistrates of Patna, who had been dragged some hundred miles before a jurisdiction they knew nothing of, to amuse themselves in prison, as they had been told in another place, by dancing in irons to the jingling of their chains, and to regale themselves with the perfumes of the common sewer of the prisons of Calcutta. The Company, Mr. Burke said, had made a false entry, and had altered their own record; they had been guilty of the grossest frauds and villanies to prevent the effect of their own petition, and had omitted to send the Act out to India. And what had they done since? They had forfeited 30,000*l.* for the purpose of defeating a criminal charge against that criminal whom they had called upon the House to proceed against. Mr. Burke enlarged on these particulars, and applied the 'nonumque prematur in annum' of Horace, to the nine years that had elapsed since the subject was first agitated, declaring, that nothing would make him add a tenth. He took up the cause for the sake of the rights of the magistrates of Patna, for a man who was a magistrate before the dirty East India Company had any power over Patna. He alluded to the expression of a bit of wax hanging to a piece of parchment, as applied to a charter on which depended the lives of millions, and asked if they, the Commons of England, owed no more protection to India, and its injured inhabitants, than a company of merchants could give them? With regard to the lateness of the season, he owned, that many things had great weight when compared with that circumstance; but when it was considered that the Patna cause had been protracted for nine years, surely they would agree that the protractors, and not the miserable inhabitants of India, ought to be punished. He submitted it to the feelings of the House, whether, when magistrates had been dragged four hundred miles from their native place to be tried by laws to which they were strangers, and suffered to remain in prison, they did not merit attention? That House, he said, was no prison, although he knew it was not extremely well calculated for business in summer; yet in a case of such magnitude, ordinary considerations ought to give way, and they ought not to hold out to India, that sir Elijah Impey, being one of their own colour, one of their gang, as it were, should, upon this account, be protected by them. Because the East India Company had delayed to do justice for nine years, that House ought not to prevaricate. For his part he would not, for no Horace had told him to keep his piece ten years.

Mr. *Smith* rose to exculpate himself from the aspersion which Mr. Burke had cast on the Company, declaring he had sat for many years amongst the Directors, and with as good men as those with whom the right hon. gentleman had associated, without any disparagement to the gentlemen, be they whom they might. Mr. Smith justified the conduct of the Company, declaring, they were always governed by the advice of their law officers, and had as respectable law officers as any in the profession. They had called on their law officers to take care that no time was lost; and he defied the right hon. gentleman to prove that the Company had been guilty of any prevarication, or of having, at any time, attempted to screen any man from justice.

Mr. *Pitt* said, that the subject had caused more warmth than it seemed to require. The right hon. gentleman had told them, that they were not to trust to history, and a great many more things that had very little to do with the question. An hon. and learned gentleman had admitted, that if the privy council had affirmed the sentence, that would go a great way towards exculpating sir Elijah Impey. [Mr. Burke said, "I never admitted that."] Mr. Pitt continued: the admission was too fair, too reasonable, and too candid, for the right hon. gentleman to have made, undoubtedly; but it so happened, that he alluded to another person, the learned gentleman opposite (Mr. Anstruther). As, therefore, the cause was to go before the privy council, as it was possible for the sentence to be affirmed,

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and as by next session they would know whether it came on or not, he thought it far more advisable to wait till then; and the more especially, since by going into it under those circumstances, they would break through a principle allowed to be a good one, and by putting it off, they would be able to go into it in future with more accuracy. The right hon. gentleman had said that that House was not a prison; a strong argument, in his mind, for not going into the consideration of the charge. If the House had been a prison, they might have some hopes of being able to detain the members, and force them to attend the consideration; the case being otherwise, in all probability, if the charge came on, they would have to look for their members at the distance of four hundred miles from those walls. He could not, however, believe that gentlemen were serious in wishing to go into an inquiry, which it would be impossible for them to finish at that advanced period of the session. The right hon. gentleman himself had too many avocations, avocations that were both honourable and useful, to wish to go into it.

Mr. *Burke* begged leave to contradict a right hon. gentleman, who had supposed him to have admitted, that the Company had requested to have the obligation upon them to give security for referring the sentence to the privy council, inserted in the Act of 1781. He had said no such thing, but the contrary, affirming that it had not been desired by the Company, nor by that House, but by the highest authority, the lord Chancellor, at whose express request he had inserted the obligation on the Company in the Bill. Mr. Burke desired the right hon. gentleman, who had proved so bad an historian, not to take upon himself the office of being his historian; declaring that he had rather trust to the Public Advertiser, the Morning Chronicle, or the Morning Post, as reporters of his speeches, though he did not consider them as the most faithful records. He complained of the right hon. gentleman's treatment of him, and said, the oppression of great parts and great powers was too much to be borne. It reminded him of a story of a Roman lady, who had married a man with a bad breath, and when he was dead, the widow was asked how she could bear to live so long with a man who had a foul breath? The lady, who was a virgin when she married, had said, in reply, that she thought all men's breaths were the same. He had heard severe things from many ministers who sat in the place which the right hon. gentleman filled, but he had suffered more from the offensive and foul breath of the right hon. gentleman, than from that of any minister that had gone before him. The hon gentleman over the way had boasted of sitting in as good company as ever he did. That was a bold word. The marquis of Rockingham, Mr. Dowdeswell, the Duke of Portland, and Mr. Fox, were not easily matched.

Mr. *Pitt* answered, that he thought he never had heard a proposition more distinctly laid down, than when he had heard the right hon. gentleman say, the East India Company had requested, that their being obliged to give security to refer the sentence in the Patna cause to the privy council, might be inserted in the Act of 1781. The right hon. gentleman had complained of his treatment of him. In the heat of debate, a warm expression might escape him; and it must be acknowledged, that the right hon. gentleman being himself remarkably guarded, and cautious of saying any thing to offend others, was peculiarly justified in taking offence at any thing rather harsh that was said of himself. With regard to the ministers who sat where he did, he had not heard so many ministers as the right hon. gentleman, and therefore he could not remember what severe things they had said to him, but the right hon. gentleman had given sufficient proof that he had forgotten the severe things that he had himself said to ministers.

Mr. *Burke* answered, that he would plead guilty to the charge of having neither been malicious in the first instance, nor vindictive in the second.

The question was at length put, and negatived. It was then moved, and carried, "That this House will, upon this day three months, resolve itself into the said Committee.

Debate in the Commons on Lord Newburgh's Estate Bill.] June 2. The Petition of lord Newburgh having been referred to a Committee of the whole House,

Sir *Herbert Mackworth* observed, that the subject was so well known to the House, that he need not trouble the Committee with any discussion of it, but would merelymove "That the House be moved for leave to bring in a Bill to allow lord Newburgh 2500*l.* a-year out of the rents and

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profits of the Derwentwater estate, situated in Cumberland, Northumberland, and part of Scotland."

Mr. *Fox* reminded the Committee, that it was four or five years since parliament had interposed its authority in favour of several families, whose estates had been forfeited in consequence of their ancestors having joined in the rebellion; that he had, at the time, endeavoured to call their attention to the case of lord Newburgh, which was certainly extremely hard, and which he had then observed, deserved the attention of the House as much as that of any other family, however respectable. As the sum now proposed to be given was extremely moderate, he thought the least that could be done, would be to put his lordship on the same footing, in point of time, with those families who had received back their estates, and therefore he trusted that there would be no objection to letting the annuity commence four or five years back.

Sir *James Johnstone* reprobated the severe custom of withholding the property of any family, on account of the conduct of their ancestors in a cause with which they had no concern. The Pretender was now dead, and all fear of the renewal of any question on right to the Crown at an end.

Mr. *Pitt* said, that no one could be more inclined than he was, to go as far as possible for the advantage of the noble lord in question, as he considered his case an extremely hard one. He thought they might fairly fix the commencement of the annuity at a period somewhat earlier than the present; but three or four years arrears appeared to him too large a sum to levy on a public charity, and as he understood the motion must specifically state the whole of the sum to be allowed, he wished the hon. baronet to withdraw it for the present and make it on the morrow, in order to allow time for consideration.

The motion was accordingly withdrawn.

June 3. The House having resolved itself into a Committee on lord Newburgh's Petition, sir Herbert Mackworth moved, "That leave be given to bring in a Bill for charging several estates in the counties of Northumberland, Cumberland, Durham, &c. with a clear rent charge of 2,500*l.*, payable to the grandson of the late Charles Ratcliffe, the right hon. Anthony James earl of Newburgh, and the heirs male of his body, to commence from the 25th day of March 1787."

Alderman *Newnham* said, that Greenwich Hospital had ever been with him a favourite foundation; he considered it a national benefit, and one that every man who wished well to the navy, the natural bulwark of the kingdom, ought to support. He could not, therefore, approve of saddling the fund of Greenwich Hospital with the 2,500*l.* a year. He conceived lord Newburgh's case to be oppressive, and had not the smallest objection to granting him the sum proposed; but if the annuity ought to be granted, his opinion was, that it ought to be paid out of the public purse. He hoped that the Bill, if the annuity was to be charged upon Greenwich Hospital, would contain a pledge, that no farther claims should ever be made upon it on a similar account.

Sir *Herbert Mackworth* did not conceive it possible for those who might bring in the Bill to insert any pledge in it, that no farther claim should be made on the Derwentwater estate. Their object was, to secure an annuity of 2,500*l.* to the present lord Newburgh.

Alderman *Newnham* contended, that it was highly necessary that the House should either pay the annuity out of the public purse, or give the Hospital its *quietus*, as to any subsequent claims. That subsequent claims might be made, was more than probable. Indeed the House had already heard of one on the account of some female relations of lord Newburgh. If the House wished to deal generously by his lordship, they ought to deal justly by the Hospital. When a man gave away what was his own, he was generous; but not when he gave away the property of others. The Derwentwater estate was the property of Greenwich Hospital; a property conveyed by act of parliament; and therefore the House had no right to make a farther disposal of it.

Mr. *M. A. Taylor* approved of the worthy magistrate's objection, though, at the same time, he believed lord Newburgh's case so hard, as to deserve immediate attention. Greenwich Hospital, he had reason to believe, was at present by no means in a state to spare any considerable sum out of its revenue. Their expenditure had of late been great, and the charge incurred by their having to rebuild their chapel, in consequence of the late fire, was so large as materially to have diminished their sum in hand.

Sir *James Johnstone* said, that it had

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been his constant opinion, that lord Newburgh had a right to his whole estate, and therefore if he was willing to accept an annuity of 2,500*l.* a year in lieu of it, the House ought to consider it as a good bargain for the public. With regard to the withholding the estate of lord Newburgh, and of other descendants of Scotch peers, on account of their predecessors political conduct long ago, it was extremely hard; indeed so hard, that he had never heard of any thing equal to it, except the damning all mankind, because Eve, our great grandmother, eat an apple.

Mr. *Jolliffe* declared, that the charging the annuity upon Greenwich Hospital, appeared to him to be ridiculous, because he thought either the whole of the estate of his ancestors should be restored to lord Newburgh, or the public ought to grant him the annuity themselves. What he principally rose for was, to move an amendment to the motion. There was a lady living (an aunt of lord Newburgh) upon very scanty means, which, narrow as they were, she derived from the bounty of the king of France. That, he thought, ought not to be the case; and as he was well assured lord Newburgh would allow his aunt whatever addition the Committee might think proper to make to his proposed annuity, which had been stated to be extremely moderate, he meant to move an addition to the sum proposed; but in order to obviate the possibility of objection, he should only move for a single 100*l.* to be added to it, and that instead of 2,500*l.* be inserted 2,600*l.* per annum.

Mr. *Fox* said, that as he could not help thinking the annuity proposed extremely moderate, and short of what ought to have been granted, he should of course vote for the amendment.

Mr. *Pitt* trusted that the right hon. gentleman would excuse him, if he imputed what he had just said, to his wish to take every possible opportunity of showing his desire that lord Newburgh should be still more amply provided for than was proposed, rather than to his conviction of the propriety of the amendment; because he was persuaded if he had considered the amendment with the acuteness that he generally applied to such matters, he must have seen that it ought not to pass. Mr. Pitt declared, that no man would more readily agree to any fair proposition in favour of lord Newburgh than he would. But, in adjusting every question of the sort, the only fit way of proceeding was to govern what was to be done by some principle or other, and not to make the motion arbitrary, as accident or caprice directed. What principle, then, could be taken as a guide in the present instance? In the first place, it must be admitted, that lord Newburgh had no legal claim of any sort on the public; still, however, he was ready to say, that although his case was by no means similar to those to which it had been compared, it had in some respects sufficient similarity to entitle it to be considered as a hard one, and to induce him to consent to the relief that was proposed. Feeling it to stand in that respect, what were they to look to? No man would contend, that the present income of the Derwentwater estates was to be taken as the principle. It must be remembered, that the estates of lord Newburgh's ancestors consisted of two parts: the one, estates, that had they not been forfeited, would have been his lordship's in right of strict settlement; the other, estates from all claim to which he had been barred, in consequence of the question of alienage having been decided against him. In regard to the former, it was to be considered, that the estates had been greatly improved since they had been in the hands of the governors of Greenwich Hospital, who had expended nearly 80,000*l.* upon them, in order to render them as valuable as they were at present. They had also laid out considerable sums to discharge the incumbrances upon them at the time of their forfeiture, and had likewise paid 30,000*l.* granted to the ancestors of the present lord Newburgh. These several sums, therefore, must all be deducted from the value of the estate, and then what remained would be found to be the rents that lord Newburgh might reasonably claim. These considerations had governed him, in consenting to the present motion, which was grounded on the principle that he had laid down. As to any increase of the sum settled, because an hon. member, without showing any ground for such an assertion, loosely said, that if lord Newburgh had any addition made, he would give that addition to another person, upon whom no part of the estate had been entailed, and who had no claim upon the public whatever, he never would consent to such an addition; it was a departure from every thing like a principle,

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and the Committee might with as much reason vote any other sum as 2,600*l.* If a case in favour of the lady could be made out, let the House vote her an allowance distinctly and separately; but he knew of no such case.

Mr. *Fox* answered, that he really had supported the amendment, because he thought the sum moved for, fell short of what it ought to amount to, and because he considered it as reasonable to enable lord Newburgh to make a better provision for his distressed relation than he otherwise would be enabled to do. Though he perfectly agreed with the right hon. gentleman, that it would be better to govern what was done by any principle, no matter what, rather than let it depend on the favour or fancy of the moment, yet he did not think that sufficient attention had been paid to lord Newburgh's claims upon the public. No man could deny that the money laid out on the estates by Greenwich Hospital on their improvement, the money spent in paying off incumbrances upon the estate at the time of the forfeiture, and the 30,000*l.* granted to the ancestor of lord Newburgh, were all to be deducted from the value of the estate; but still there was something like a claim to be allowed in respect to the other estates, those to which lord Newburgh's claim was legally barred by the decision of the question of alienage. Every man who knew any thing of landed estates in this country, knew that a landed estate of 2,500*l.* a year, was infinitely preferable to an annuity of 2,500*l.* It was not merely the income that the land carried with it: every gentleman knew, it carried with it a variety of other advantages, and, in the case in question, very considerable patronage. These were, undoubtedly, circumstances of material consideration. With regard to the aunt of lord Newburgh having no legal claim, surely it would be admitted, that every head of a family possessed of a considerable estate, was looked up to by the younger branches for support and assistance, if they needed either. If lord Newburgh or his ancestor had held the estate in their own hands, in all probability their aunt would not have been involved in such distress and poverty as she had experienced for a number of years.

Mr. *Whitbread* said, if Greenwich Hospital was poor, and wanted assistance, let the House vote a grant of 5,000*l.* and give it to the Hospital; but let them not, on a plea of the wants of Greenwich Hospital, refuse to do an act of justice to lord Newburgh.

The question, "That 2,500*l.* stand part of the question," was then put, and carried.

Debate in the Commons on the Compensation to the American Loyalists.] June 6. The House being in a Committee on the Bill "for appointing commissioners further to inquire into the losses and services of all such persons who have suffered in their rights, properties, and professions, during the late unhappy dissentions in America, in consequence of their loyalty to his Majesty, and attachment to the British government,"

Mr. *Pitt* rose. He said that he conceived no dissimilarity of opinion would be found to affect the principle of the business to which he meant to call the attention of the Committee, although, perhaps, some difference of sentiment might be entertained as to the mode and distinctions which he should consider it his duty to propose, in order to carry the principle into effect. What he had to submit to the consideration of the Committee was, the satisfaction to be made to the American loyalists, for the final liquidation and adjustment of their claims, on account of losses sustained by them in consequence of their adherence to this country during the late American war. The American loyalists, in his opinion, could not call upon the House to make compensation for their losses as a matter of strict justice; but they, most undoubtedly, had strong claims on their generosity and compassion. In the mode, therefore, that he should propose for finally adjusting their claims, he had laid down a principle with a view to mark this distinction; and had adhered to it throughout the various quotas of compensation that he should propose to be made to the various classes of loyalists, the more clearly to ascertain and establish it. Having premised this, Mr. Pitt stated the different descriptions of loyalists who had preferred their claims before the commissioners appointed to inquire into American claims, and divided them into four classes. In the first class, he considered and ranked all those who had resided in America at the commencement of the war, and who, in pursuance of their principles of loyalty and adherence to this country, were obliged to abandon their estates and their property in America, which were, in consequence, seized and confiscated by the

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Americans. The mode he meant to adopt with respect to this class of loyalists, whom he considered as the most deserving, and as having the strongest claims of any description of loyalists, would be to pay those, whose claims were so small, that any deduction from them would materially affect their means of existence with any sort of comfort, the full amount of their claims. He should propose, therefore, to pay all such loyalists whose claims did not amount to more than 10,000*l.* whatever their claims should amount to, and to deduct 15 per cent. from all that their claims should amount to, over and above the first 10,000*l.*, if under 30,000*l.* and an additional per-centage if from 30,000*l.* to 50,000*l.* He assigned as a reason of proposing that the 15 per-centage should be deducted from the excess only of the loyalists claims over and above the first 10,000*l.*, that if such a rule were not laid down, and the 15 per cent. were deducted from the first 10,000*l.*, it might happen that those claimants, whose claims amounted to a trifling sum above 10,000*l.* would receive a less compensation than those whose claims, though they did not amount to quite 10,000*l.*, amounted to very near that sum.—The next class of claimants included those who having resided in England during the war, had exhibited claims on the score of the loss of property in America. These certainly had not the merit of the former class, because they could not pretend that they had been driven from America, but had made their option; and it was natural to suppose, that they chose that, which, in point of advantage and satisfaction, was the best for themselves. At the same time, however, that this remark was necessary, he was far from thinking, that, because they chose to remain in England, and protect their property here, they were not entitled to expect some compensation from that House for the loss of their property in America. They undoubtedly were; and he should propose, in like manner as he had proposed with respect to the former class, that all the claimants of this second description, whose claims were under 10,000*l.* in amount, should be paid in full; but that, from all whose claims amounted from 10,000*l.* to 30,000*l.*, a deduction should be made of 20 per cent. and a farther deduction of 20 per cent. from all whose claims amounted to above 30,000*l.* and under 50,000*l.*; and a still farther deduction from all above 50,000*l.* up to 100,000*l.* and so on in proportion. It happened, that the highest of the claims of this class under 50,000*l.* was one of 23,000*l.*; and above that, there was no other, except the claim of Mr. Harford, which was, as it stood liquidated by the commissioners, 210,000*l.* Applying, therefore, this scale to the claim of Mr. Harford, the sum to be paid to him, after the several deductions, would be found to be 50,000*l.*, which, considering all the circumstances of the case, was, he thought, a very handsome compensation for that House to make. But Mr. Harford, he understood, had two other claims upon America, for debts of 10,000*l.* each. He meant, therefore, that Mr. Harford should receive the full amount of those sums.—The next class of claimants, were those loyalists, who, having either enjoyed places, or exercised professions in America, had, by being driven away in consequence of their loyalty to this country, lost their incomes. With regard to these, it was to be considered, that though they had been driven from America, they were able to obtain fresh incomes in this country, by exercising their talents and their industry in different ways; he should not, therefore, propose to give them equal incomes to those they had been deprived of, by way of pension, but was of opinion, that they ought to consider themselves as liberally dealt by, if all who had been deprived of incomes, not amounting to more than 400*l.* a year, were put upon half pay; and others, whose incomes in America had amounted higher, (and some, he said, amounted as high as 1,500*l.* a year, and one as high as 3,000*l.*) should be paid 40*l.* per cent. for every 100*l.* of such income above 400*l.*, where the value does not exceed 1,500*l.* per annum in the whole; and where the value does exceed 1,500*l.* per annum in the whole, then in the proportion of 30*l.* per cent. for every 100*l.* exceeding 400*l.* per annum.—With respect to the West Florida claimants, he should propose to pay them the full amount of their claims, because they stood in a very different predicament from the American claimants, having, in consequence of a peace, which ceded Florida to another power, and which that House had agreed to, been obliged to quit their habitations and property in West Florida. Having explained these several points, and stated that the total amount of claims was two millions odd hundred thousand pounds, exclusive of the 4 or 500,000*l.* that had

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been already advanced at different periods, he said he should move a general resolution for the amount of that sum to be issued in debentures, bearing 3½ per cent. interest, which would, he thought, be nearly equal to a ready money payment; and he had, on a former occasion, hinted his idea of proposing, with the approbation of the Committee, that the whole sum should be paid off by instalment, by means of a lottery, till the whole should be cleared. That however, was matter for farther consideration; it was sufficient for the present to move, "That 1,228,239*l.* be voted to the several American claimants for losses, &c., and 113,952*l.* 14*s.* 3¾*d.* to the Florida claimants."

Sir *E. Astley* said, that when the subject of the claims of the American loyalists had been last under consideration, he had taken the liberty of asking the right hon. gentleman, if he had seen a pamphlet on the subject, which had been sent round to the members of that House; and to this question, the right hon. gentleman had answered that he had read the pamphlet. Sir Edward declared, that he had, at the time, alluded to certain distinctions between those American loyalists who had fairly and boldly stepped forward at the commencement of the war, and declared in favour of this country, and such others, as had, by false intelligence and other means fomented the quarrel, and inflamed the minds of the people of England against America. In consequence of what he had then remarked, he had been regarded by the newspapers as a systematic opposer of the claims of the American loyalists. He had therefore determined to take the first opportunity of clearing his character from such an aspersion. He was no enemy to the loyalists; no opposer, generally of their claims. On the contrary, he thought that House bound in honour and justice to pay them due attention. All he wished was, that a line might be drawn between the deserving and the undeserving. He had lately conversed with two of the commissioners appointed to examine those claims, who had perfectly satisfied his mind upon the subject, by assuring him, that great attention had been paid to the distinction of merit and demerit, and as he took it for granted that the several divisions and deductions stated by the right hon. gentleman that day, had been governed by an attention to the distinction to which he adverted, he had no objection to the motion.

Mr. *Hussey* said, that he was not yet satisfied in his mind whether he ought to vote in favour of the motion. What he wished to be satisfied in was, whether the claims of the loyalists were founded in right or not, or whether the voting such sums as were then proposed, was a mere matter of favour and liberality.

Mr. *Burke* said, that he felt extreme concern at discovering that an hon. gentleman of so enlightened a mind, and of the purity of whose intentions, on all occasions, no man could make the smallest question, had any doubts or objections to the present motion. He never gave a vote with more satisfaction, than he should give his vote for the present motion, because, though the loyalists had no claim upon the House founded in strict right—which must necessarily be arbitrary, and could admit of no modification whatever, but must be fully satisfied to its utmost extent, whatever that might be—yet the House was bound in honour and justice to take their claims into consideration. Mr. Burke assured the Committee, that such a mode of compensating the claims of the loyalists would do the country the highest credit. He said, it was a new and a noble instance of national bounty and generosity. At the restoration, he remembered the case had been widely different. There the poor bishops, who had been so long deprived of their sees, were deemed well off to obtain their sees again, and the sum of 80,000*l.* was all that the House had voted for the King to distribute among the loyalists, though it was a well-known fact that the marquis of Worcester alone had lost an estate of 300,000*l.* Mr. Burke descanted on these historical facts, and said, it was a solid satisfaction to his mind, that he had uniformly voted against every question that led to the consequences that laid the Committee under the necessity of coming to the vote then proposed; he should, nevertheless, chearfully vote any sum however large, upon the account stated, because, though the American war had been carried on by the voice of a majority, all were involved in the promises of that majority; and the loyalists had certainly been assured from the first authority in the state, that if they left their property and joined the King's army, or came to England, they should receive protection and support. That pledge was sacred, and ought to be faithfully fulfilled. With regard to the proposed mode of making the compensation, he thought it

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both liberal and prudent, neither too large on the one hand, nor too small on the other; and he gave the right hon. gentleman credit for having made the divisions, and distinguished the deductions to be taken from the claims of the different classes of loyalists. It did this country honour, inasmuch as it showed our attention to the different extent and force of the claims of the several claimants; and it would not have done them honour, had they expected to have been paid the full amount of those claims, because it would have proved, that they had no real principle of loyalty to inspire their conduct, but that they had joined the side that they had joined, under a certain expectation of running no risk whatever, but of receiving back the whole of their property. Mr. Burke concluded, with giving his assent to the motion.

Mr. *D. P. Coke* said, there was a class of claimants, whose claims ought, in his mind, to have been satisfied in full, and those were the loyalists, who had been resident in America when the war broke out. Among the description of claimants, one case peculiarly hard, was that of col. Philips, a most meritorious man, who deserved every possible mark of attention and favour. Col. Philips had a landed estate of worth 40,000*l.*, when the war broke out, and he had seven children. During the war, he had rendered the most important services to the British cause, and he could not think that such a man should pay any part of the 40,000*l.* that had been his property. He said, he would make a motion to the effect: "That it was the opinion of the Committee, that the losses of the American loyalists before the war commenced, be made good, without any diminution." He hoped the House would approve of such a motion, and not suffer the character of the country to stand impeached for a paltry ten per cent.

Mr. *Fox* said, that, in his opinion, the giving the loyalists relief was not a matter of liberality, nor a matter of compassion, but what they had a strict right to; not a right to the full payment of their unqualified claims, but a strict right to a compensation for what they had suffered: such a compensation as that House should, upon due consideration, think fit to make them; and, therefore the strict right that he alluded to, differed only in definition, but not in point or effect, to the strict right alluded to by the right hon. gentleman over the way. Mr. Fox said, he felt some sort of difficulty in speaking on the subject. It was well known he had at times expressed not the most favourable opinion of some of the loyalists, nor of the motives that had actuated their conduct, and did continue to actuate it during the war. He would, however, for the present, dismiss all that sort of feeling from his breast, and speak solely to the question before the House. Whatever he might think of some individuals among the loyalists, none in that House were of opinion that they had a juster claim to compensation than he had; but not a claim to the whole of their demand. To act by them upon any such preposterous idea, would be making many of them stand in a better situation than they would have done, had the war ended differently than it did. The right hon. gentleman, he thought, had proposed not only fairly and properly, but happily and generously. Had the loyalists known even before they took their option, and joined the British side of the question, that they would have been at all events compensated in the manner now proposed, and that the risk would have continued such, subject to the chance of success on our part, he must have been a dastardly wretch indeed, who, besides a predilection for one side, would not have ventured such a risk. At the same time, he did not think the right hon. gentleman had acted too generously. The American loyalists were all meritorious to this country, by doing at their risk, what the parliament required of them, and therefore they were entitled to a compensation, but by no means to a full compensation as proposed by the hon. gentleman who spoke last, and therefore he held himself bound to vote against his proposed motion.

Mr. *Pitt* said, that he had received peculiar satisfaction from the concurrence of the right hon. gentleman, but he did not think, however it might add to the popularity of the measure, that it ought to be conceived to be more liberal than it really was. He felt it to be his duty, therefore, to state, that the distinction alluded to by an hon. baronet between such loyalists as were more deserving than others, on account of their political principles, had not been made. In fact, no such distinction could be made, nor, in his mind, ought it at that time to be adverted to. With regard to the observation, that if the loyalists had been paid in full, they would have been better off, than even

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if the war had ended differently, he could not assent to this idea. They certainly had no sort of claim to a repayment of all they had lost. He was, nevertheless, of opinion that the line should be liberally drawn, and a handsome compensation made. What he had proposed was, he, trusted, a liberal and a handsome compensation, and left the loyalists without a plea for complaining that they had been hardly dealt by, all the circumstances of their case, and the case of this country, considered. With regard to what an hon. gentleman had said, he could by no means agree, that because colonel Philips was a meritorious officer, that on his account singly, a principle ought to be departed from. Let the hon. gentleman recollect, that as the case stood, colonel Philips's representatives would receive 50,000*l.* out of a claim of 62,000*l.*, and Mr. Harford would only receive 50,000*l.* out of a claim of 210,000*l.*

Sir *M. W. Ridley* asked whether, although Mr. Harford's claim had been 210,000*l.* he was to receive only 50,000*l.*; and col. Philips's family were to receive the same sum? Surely, no equitable scale of deduction could warrant such an extraordinary adjustment of two claims of such very different amounts.

Mr. *Fox* asked, what the grounds for reducing Mr. Harford's claim to 50,000*l.* were?

Mr. *Pitt* said, that Mr. Harford was the only person in the second class of claimants, who had a claim to a larger amount than 23,000*l.* In that class he had proposed a deduction of 20 per cent. in the first instance, from all over the first 10,000*l.* up to 30,000*l.*, and that deduction to increase in regular progression upon every 50*l.* upwards; tracing which principle truly, it would be found, that Mr. Harford's claim of 210,000*l.* was ultimately reduced to 50,000*l.* and small as that sum was in proportion to the claim, no man could say, it was not a comfortable subsistence, and he had no scruple to avow, that he thought it a handsome gift on the part of the country.

Mr. *Fox* remarked, that if the scale bore hard on Mr. Harford, he was glad to find, if it must fall any where, that it would fall on those who possessed the largest property, and who could consequently best bear the blow. It was, however, a hardship on Mr. Harford, and he would show the right hon. gentleman where it arose from a departure from the strictness of his own principle. The right hon. gentleman had said, that every claimant, who had demanded under 10,000*l.* should receive the whole, and he had then stated for all above 10,000*l.*, and under 30,000*l.*, fifteen per cent. should be deducted, assigning as a reason for taking so wide a distance as from 10,000*l.* to 30,000*l.* and charging the deduction only upon the excess over the 10,000*l.* that if any claimant whose demand amounted to but a trifling sum more than 10,000*l.* were to be liable to a deduction of 15 per cent. upon the whole, he might possibly receive a smaller compensation, than the claimant whose debt was only a trifle under 10,000*l.* If the right hon. gentleman, therefore, had followed up this sort of principle, and governed the size and amount of his per-centage deduction, strictly, letting the 15 per cent. operate upon the excess betwen 10 and 30,000*l.*, then imposing an additional per-centage betwen 30 and 50,000*l.* another between 50,000*l.* and 100,000*l.* and thus, in progression, all this, as far as the allotment could have applied to Mr. Harford's case, must have secured to him more than 50,000*l.* for his portion.

Mr. *Pitt* thanked the right hon. gentleman who had reminded him of a circumstance he had overlooked; for he had just discovered, that there was one claimant above 30,000*l.* and yet not reaching to 44,000*l.* upon which, if the 15 per cent. strictly operated, that claimant might receive a smaller compensation than a claimant for something under the sum of 30,000*l.*, but he could not perceive that Mr. Harford's claim could, upon any fixed principle, be altered; if it could, he should not have the smallest objection, as he had endeavoured to draw the line fairly, without the smallest communication with any of the parties, Mr. Harford being at that hour utterly ignorant what the Committee were likely to do with his claim.

Mr. *Hussey* thought Mr. Harford's case rather severe, and that the debentures ought to bear a better interest than 3½ per cent. He was a friend to economy, but one or two hundred thousand pounds was a trifling consideration, where the national justice was pledged.

Mr. *Wilmot* rejoiced that the stage of the inquiry was come, when the loyalists were to receive the ultimate settlement of their claims, and he thought the propositions liberal, although he owned he had ever expected, that what the commissioners reported, was to be the amount of the sums paid to the loyalists.

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Sir *M. W. Ridley* persisted in his endeavours to procure an enlargement of the sum to be allowed Mr. Harford, declaring that he thought 50,000*l.* but a paltry compensation for his loss, and the more especially, when Mr. Harford had gone over to America and spent 13,000*l.* of his English fortune in endeavouring to recover his estates across the Atlantic.

Mr. *Windham* saw no advantage in adhering strictly to the right hon. gentleman's scale in respect to Mr. Harford, because, according to the scale, if carried up to the possible extent of a very large sum, the claimant for the largest sum would be found to receive the smallest compensation.

Mr. *Fox* strengthened Mr. Windham's argument, and showed that Mr. Pitt's scale did not operate equitably between the claimant of a large sum and the claimant of a smaller, the latter having, out of all sort of proportion, the advantage. If the right hon. gentleman had traced his rule regularly, it would have given Mr. Harford more than 50,000*l.* and surely, if the rule laid down was in his favour, if regularly traced, it was hard he should have any part of his fortune withheld because the right hon. gentleman had not traced it regularly. Mr. Fox again pointed out how the scale ought to have been traced admitting that had it been so traced, he should have increased the per-centage at different stages of the gross demand, in proportion as it swelled or increased.

Mr. *Pitt* said, that he could not then trace Mr. Fox's scale correctly, but he found it would probably amount to 90,000*l.* instead of 50,000*l.* He owned that 90,000*l.* was more than he thought ought to be given, and as the right hon. gentleman had contended that he should have increased the per-centage deduction gradually, in proportion as he considered the increase of the demand, allowing for that sort of increase, it would make the medium between 50,000*l.* and 90,000*l.* which was 70,000*l.* and to such a compensation he did not mean to make the least objection.

This proposition giving satisfaction to all sides of the House, the resolution, as amended, was agreed to.

Complaint respecting Members being interrupted in coming to the House.] June 10. Mr. Elphinstone having made a complaint to the House, that several members had been interrupted this day in coming to the House, by a door being shut at the top of the stone stair case, which door was refused to be opened by one of the door-keepers attending this House, Mr. Thomas Baker, the said door-keeper, was called in and examined in relation thereto; and having informed the House, that the said door was kept shut by order of the deputy great chamberlain, during the time of the procession of the Lords from the House of Lords to Westminster-hall; he was directed to withdraw.

Ordered, that the further consideration of the matter of the said complaint be adjourned till to-morrow; and that sir Peter Burrell, deputy great chamberlain of England, a member of this House, be then desired to attend in his place.

June 11. Mr. Elphinstone, after shortly stating his complaint of being prevented from entering the passage leading to the House by two men placed on the outside of the door, and by Mr. Baker, the door-keeper, who, on being asked by what authority they refused admittance, had answered, that it was by order of sir Peter Burrell, who had given them strict directions to suffer no person whatever to pass during the procession of the peers to the Hall, moved that the complaint which he had made upon the preceding day might be read.

The Clerk having read the said complaint, the Speaker asked sir Peter Burrell, whether the door-keeper, in refusing admittance to the members, had done so in consequence of any orders given by him?

Sir *Peter Burrell* answered, that the door-keeper had done no more than comply with the instructions which he had given him, in consequence of the orders of the House of Lords, to keep the passages and avenues to the court clear, during the procession of the peers.

Lord *Belgrave* said, that, in fact, when the procession commenced, the members of that House ought to be in their place in the court in Westminster-hall, with their Speaker, it was therefore a neglect of duty in any member to be passing between the House and the court when the procession was in its way thither.

Mr. *Elphinstone* considered the preventing a member of that House from having, at all times during its sitting, free admittance, a breach of their rights and privileges. He meant no reflection on sir

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Peter Burrell, for whom he had the highest respect, by the complaint which he had made; but, understanding that the order originated with the Lords, he conceived it his duty to make a complaint upon the least infraction of the rights of the Commons.

Lord *Newhaven* contended, that neither the great chamberlain, nor any other officer acting under the orders of the House of Lords, should be permitted to direct any of their door-keepers.

Sir *Joseph Mawbey* maintained, that no person on earth ought to prevent the members from having free ingress and egress to and from their own House. If, therefore, it was inconvenient to the Lords for them to pass through the ordinary passages during the progress of the procession of peers, other entrances into the House ought to be opened for the convenience of the members. He saw no sort of necessity for such a strictness as had been adopted. He had himself repeatedly come too late to join the House before it proceeded to the Hall, and had not experienced any difficulty in getting into the Hall, by watching for a fit opportunity to shove in among the Lords, and get to this place. There were intervals in the procession of the Peers, that might easily be taken advantage of, without the smallest inconvenience to the Lords, or to any person whatever. He could not, therefore, but have wished, that no cause of complaint had been given, or that it had not been noticed to the House; yet, as it had been stated, it was impossible for the House to pass it over without some sort of animadversion, which he hoped would be as slight as possible, and the least offensive to the deputy great chamberlain, who certainly had merited the approbation of all, for his attention to his duty during the whole time of the court's sitting.

Lord *Belgrave* said, that so far from intending to move any thing hard upon the subject, he should move to put off the farther consideration of the complaint till that day three months.

Mr. *F. Montagu* said, that those gentlemen who were so anxious to preserve the privileges of the House, were undoubtedly entitled to their thanks. It became every member to be jealous on such a subject; but after what he had heard, and after having witnessed the active zeal and attention of the deputy great chamberlain, he could not forbear seconding the motion of the noble lord, whose conduct that day had given him great satisfaction, and whom he hoped he should have the pleasure to hear often.

Sir *James Johnstone* did not see why the trial could not proceed as it had done hitherto, without new rules and regulations. No obstruction had been before complained of, and he hoped no cause for farther complaint would arise.

Mr. *Vyner* said, that he should have no objection to the motion of adjourning the consideration of the complaint, if he was not afraid that it would stand upon the Journals, that the members had been obstructed in passing to their own House, in consequence of an order of the House of Lords. To prevent members from coming to the House at any part of the day, to examine papers, or to go to any Committee that might be supposed sitting, was undoubtedly a breach of their privileges, and ought not to be passed over, when it was expressly stated to have been committed in consequence of an order of the House of Lords. If the Lords could prevent the members from going to their own House, they could shut the door up altogether. Thinking, therefore, that the cause of complaint was more serious than it might appear to other gentlemen, he must not only oppose the motion, but take the sense of the House upon it.

The House divided on lord Belgrave's motion: Yeas, 41; Noes, 15.

Lord *Newhaven*, as soon as the House was resumed, desired to know who was the proper officer to communicate the orders of the House to the doorkeepers. The Speaker said, the Serjeant at Arms. Lord Newhaven then read a motion, the purport of which was, that the Serjeant at Arms do inform the doorkeepers that they obey no orders whatever but such as shall be delivered to them by him in person. The Speaker observing the House very thin, reminded his lordship, that he might with greater propriety make his motion upon the morrow. Lord Newhaven acquiesced.

June 12. Sir *P. Burrell* rose in consequence of an intended motion, relative to the trial of Mr. Hastings. He said, he could most sincerely assure the House, that no member felt a more anxious desire to preserve the privileges of the House than himself; nor would any man go farther to prevent their being infringed; at the same time, he must be allowed to say,

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that having the honour to hold an office under the House of Lords, he thought it his indispensable duty to execute the orders of that House, according to the best of his judgment, and in the most effectual manner. It was not for him, in his official capacity, to pronounce upon the meaning of the orders given him by the House of Lords, or to say, whether, in fair construction they did, in any degree, amount to an infraction of the privileges of that House. The House, when they saw the order would be able to judge for themselves, and his conduct in discharge of his duty, proved that it would bear the construction which he had conceived it to convey. Whether that was the true construction, or whether he had erred in his judgment, he knew not; but, as great bodies had often erred in judgment, it would not be wonderful if an individual should have erred in judgment likewise. He wished, however, before any motion was made, that might lead to consequences which every gentleman must feel anxious to avoid, that those who had proposed to bring forward a motion upon that day, would have the goodness to wait till the court should have sitten one more day, and be guided by the event of that other day. If they then found that members were obstructed in their way to the House, the motion could be brought forward; but if no inconvenience took place, he hoped it would be agreed that the motion was needless.

Mr. *Bouverie* thought, with his hon. friend, that it would be very unwise to make any motion that should produce a disagreement between the two Houses. No man was more anxious than himself to preserve the harmony that so happily subsisted between them; but it did appear, from the complaint that had been made, that the members of that House had been obstructed in their way to their own House, in consequence of orders given to their doorkeepers by an officer of the House of Lords, in a way that, in his mind, would have justified personal violence; and had that followed, they must all acknowledge, that a difference between the two Houses most probably would have been the consequence. What he wished was, to prevent the possibility of a recurrence of such an impropriety, and in order to avoid offence, he had worded his motion, so as to make it co-operate with the orders of the House of Lords, and produce the same effect. Mr. Bouverie then read his motion, which was, "That no member of this House do remain in, or do cross, or pass through, any part of the passages leading from the door of the lobby of this House to the gallery prepared for the members of this House, in Westminster-hall, or from the temporary door at the top of the stone stair-case to the said gallery, during the time that the Court are in regular procession to or from the said hall; and that the Serjeant at Arms attending this House, do keep clear the passage of members at such times; and that the doorkeepers be directed to attend at the several doors opening to such passages, in order to apprize the members of this order."

Mr. *Hussey* seconded the motion.

Mr. *Pitt* did not rise to oppose the motion, which he thought in no other way objectionable than as to the wording of the latter part of it, which directed the doorkeepers to apprize the members of the order; that he conceived to be rather a disorderly mode of communicating the orders of the House, and such as was perfectly unnecessary, since all the members were bound to apprize themselves of the orders of their own House. But what he rose principally for was, to declare his opinion, that so far from the obstruction complained of upon the preceding day, being such as would have justified personal violence, he saw no reasonable colour of complaint at all. This House had carried up articles of impeachment to the House of Lords, as a court of justice. The Lords were judges, and consequently had a power over their own court, in like manner as every other description of judges had a power over every other court of justice. They had an undoubted right to give such directions respecting every part of the trial, as would, in their opinion, be most likely to produce regularity, order, and solemnity. To question or to resist the exercise of such right, was to question the authority of the highest court of justice known to the constitution, and what he was persuaded no gentleman who thought at all upon the subject, would either attempt or countenance. But it had been urged yesterday in debate, and very properly, in his mind, that the members, so far from obstructing the passages to the court, during the procession of the Lords, ought to be in another place with the Speaker. This was sufficient to prove, that those members who were in the House during the progress of the procession were where they ought not

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to have been. He was perfectly satisfied there was no ground for accusing the Lords of having made the order under which the deputy great chamberlain had acted, with any view to infringe the privileges of that House. At the same time he saw no objection to the motion, provided the last sentence was left out.

Mr. *Bouverie* had not the smallest objection to adopt the alteration that the right hon. gentleman had pointed out.

Sir *Grey Cooper* considered the motion as needless. He reminded the House that at first, the Lords had expressed an inclination to hear the cause in their own House; but the Commons desiring to have it heard in Westminster-hall, the Lords had complied. Nothing could surely be more civil and accommodating on the part of the Lords; and that House, he was persuaded, would not be outdone in politeness. Hitherto, during the existence of the great cause, perfect harmony had subsisted between the two Houses; that harmony every friend to the constitution must wish should continue; although, therefore, it was laudable for gentlemen to be jealous of any point which looked like any infringement of their privileges, yet he really saw, on the present occasion, no pressing call for any such motion as that proposed. The two privileges that the members wished to claim, appeared to him to be the privilege of coming, when it was too late to go down to the hall with the Speaker, and the privilege of interrupting the procession of the House of Lords into their own court. With regard to the hon. gentleman who held a high office under the Lords, his situation was in many respects a very invidious one. It was certainly no easy matter to conduct above three thousand people every day into Westminster-hall, to arrange them while there, and to conduct them out of the hall again with as little confusion as possible. The hon. baronet had done his duty in these respects successfully, and ought to receive the support of that House. Upon that account alone, he should wish that the motion were not pressed. In fact, the only end of it would be, a declaration on their part, to do the very same thing themselves, and by their own authority, which the House of Lords had executed already. If such a proceeding were necessary at all, he conceived it could only have been necessary in the outset of the business, and that it not only was out of time now, but that it could not be adopted in that stage of the trial, without conveying something like a shade of disrespect to the House of Lords.

Mr. *Burke* perfectly coincided with Mr. Pitt in every part of his argument. The present motion was neither necessary nor noxious. Unnecessary, because, undoubtedly that House in the conduct of such a trial, standing as the accusers, were bound to comply with the forms and orders of the court who sat to try the cause, and in his opinion, the Lords had hitherto afforded every reason for that House to make every possible return of civility and accommodation. The motion was, however, perfectly innocent, since it only tended to co-operate with the Lords, by adopting their own form of proceeding, and thus enforcing the effect that they had obviously wished to produce by their orders. The two Houses had met each other cordially, though not, perhaps, with equal fires. Mr. Burke complimented sir Peter Burrell on his extraordinary and successful exertions, his extreme patience, and his unparalleled politeness during the trial, which were among the good things that had arisen out of it. He concluded with expressing his satisfaction at finding that a matter, which on its first appearance looked rather cloudy, and as if portending a storm, had passed over without mischief, and ended in a return of sunshine.

The motion, as amended, was then agreed to.

Debate in the Commons on the Hay Exportation Bill.] June 16. Mr. Alderman *Sawbridge* rose. He observed, that the long continued drought had rendered the crops of hay exceedingly scanty, and there was the greatest probability that other fodder would be proportionably scarce. He conceived, therefore, there could be no objection to the passing a bill to prevent the exportation of hay similar to that which passed three years ago, and of which it was a transcript. The drought he said had not been peculiar to this island but had produced a similar effect on the continent, and more particularly in France and Spain. He concluded with moving, "That leave be given to bring in a Bill to prevent the exportation of hay for a time to be limited."

Mr. *Dundas* thought the ground of expediency sufficiently obvious to warrant the passing of such a bill; and as the Bill was a transcript of the one passed three years ago, it would necessarily contain a clause, giving his Majesty in council the power of

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taking off the prohibition, whenever the nature of the case should appear to them to render it necessary.

Sir *Joseph Mawbey*, before a bill of that nature was permitted to be brought in, conceived some substantial ground ought to be laid of its necessity. When the former bill had been moved, it had been stated, that considerable quantities of hay were contracted for by agents from France, and that there was a great probability, that the inhabitants of this island would be materially distressed in consequence of the extravagant price hay would rise to, if a sudden stop was not put to the exportation. At present, he had not heard of any similar cause of apprehension. He did not approve of bringing forward so important a bill, in respect to its probable effect on the landed interest, at that advanced period of the session, when the majority of the country gentlemen were retired, to the superintendance of their private affairs.

Alderman *Sawbridge* could not hear without astonishment the hon. baronet's opposition, since the Bill was designed merely as a preventive against the danger that the extraordinary continuance of dry weather, both here and upon the continent, threatened. He was persuaded from the information he had received from all parts of England, that, if all the country gentlemen had been present, the hon. baronet would have stood alone in his objection to the Bill; but gentlemen would consider, that it was impossible for him to move for leave to bring in a bill upon such a subject, before the season of the year afforded a proof that such a bill would be expedient. The Bill was founded in the best possible policy, and brought forward with a view to prevent a probable evil; and as it would contain a clause authorizing his Majesty in council to take off the prohibition, whenever it should appear unnecessary to continue it, no mischief could ensue from the passing of such a bill; on the contrary, it might prove of great advantage to the country.

Sir *Joseph Mawbey* said, that as the Bill would contain such a clause he would withdraw his objections.

Leave was given, and the Bill was brought in on the following day.

June 16. The House being in a Committee on the said Bill,

Sir *William Conyngham* was of opinion that the scarcity of hay about London might prove very great, nor less perhaps in various parts of England; but the same reason, he said, did not apply to the part of Great Britain from which he came. In Scotland there was, last year, a very plentiful crop of hay, insomuch that hay had sold there as low as 30 shillings a load, and there was so much still on hand, that there was not a probability of any deficiency. Sir William said, his country had an exportation hay trade to the West Indies, where they annually sent small quantities. He proposed therefore to leave the word 'Scotland' out of the Bill; yet at the same time he had no intention of dividing the Committee upon it.

The Bill having gone through the Committee, was reported to the House.

Sir *R. Smith* said, that he understood the Bill to be a transcript of a bill that he had himself brought in three years ago, but he must nevertheless oppose it. When the bill was introduced three years ago, we had witnessed two very severe winters, and two years of great scarcity in respect to hay. Then it was a well-ascertained fact, that an equal degree of scarcity prevailed on the continent, and that measures were actually going on for the purchase and exportation of the greatest part of the little stock of hay that remained in England, to Flanders, France and Spain. There was, at that time, therefore, every reason to dread actual famine, in respect to fodder for cattle. At present, no such strong grounds had been laid; for although the plea for the Bill was the necessity of the case, that necessity had not been proved, and the House had nothing before them but the loose declaration, that hay would prove extremely scarce: probably hay might be dear at the London market, but that was by no means a consideration to govern the rest of the kingdom; in many counties he was persuaded, there was a great deal of hay in hand, and if refreshing rains should fall, it might produce such plentiful crops of after-grass, that the inconvenience held up as an object of so much alarm, would, in all probability, be scarcely felt at all. We had experienced a very mild spring, the crops of turnips had, in consequence, been good, and therefore the farmers, who fed their cattle upon turnips, had not found much occasion to consume and diminish their stocks of hay. An hon. baronet, he understood, had opposed the Bill, when leave to bring it in was first moved for, but had withdrawn his ojections on learning

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that it contained a clause, giving the King in council a power to suspend the prohibition, whenever it should to them appear that the prohibition need not be continued. So far from that clause weighing with him in favour of the Bill, it was the strongest reason for his disliking it. The granting the King in council powers of suspension, was in itself highly unconstitutional; such powers ought at all times to be reluctantly granted by the House. The more constitutional way was to leave it to the minister to take off the prohibition at his own risk, when he thought proper, and to let him justify himself afterwards to parliament, and apply for a bill of indemnity. He disapproved of bringing in bills of that important nature at such an advanced period of the session, when more country gentlemen were not present. Upon these considerations, therefore, he should move to recommit the Bill, for the purpose of moving in the Committee, that the clause granting the power to suspend the prohibition to his Majesty in council be expunged.

Alderman *Sawbridge* was surprised that the hon. baronet who had stated objections to the principle of the Bill, should have chosen that particular stage of it to meet it with resistance. With regard to the hon. baronet's declaration, that the granting powers of suspension to his Majesty in council was unconstitutional, he agreed with him; but what could mark its being unconstitutional more strongly than the making an express provision for it in the Bill? Instead of granting this power to his Majesty in council, the hon. baronet recommended that the minister should assume the power without any authority whatever. Would any gentleman seriously contend, that it was more constitutional or more prudent to let the minister, at his discretion, assume the power of suspension whenever he thought proper, than to grant it to the King in council for a limited time expressly? The hon. baronet doubted the probability of there being a general scarcity. Mr. Sawbridge said, that from the information he had received from different parts of the kingdom, he was convinced there would be a great scarcity of hay; indeed the scarcity of hay was notorious. Another extremely material consideration was, the little probability of there being any great quantity of straw this year. Gentlemen well knew that, in many parts of England, farmers fed their horses and other cattle on straw mixed with hay. If, therefore, there was no prospect of much straw, it became necessary that the little hay we had should be kept in the kingdom for our own use. He was as great an enemy to prohibitions upon the exportation of hay, or any other article of export, as the hon. baronet. He was by no means fond of injunctions upon trade. He well knew it was, generally speaking, contrary to the interest of a commercial country; but when it appeared highly probable that there would scarcely be hay and other fodder sufficient for our home consumption, surely in that case it was expedient to take care of ourselves, and not export that which we ourselves want. Another circumstance was the similar situation of Flanders, France, and Spain, in which countries the prospect of scarcity, both in respect to hay and straw, was equally great. Upon these considerations, he hoped the hon. baronet would wave his objections.

Mr. *Pye* could answer for the county of Berks, that they had a very scanty hay harvest during the preceding year, and that the present afforded no better prospect. In some part of the country where forty loads of hay used to be mowed, not above eight loads were likely to be procured.

Mr. *Drake* gave the hon. baronet credit for his good intentions, but was rather surprised at his opposing the present Bill.

Sir *Robert Smith* repeated his objections to the Bill, particularly to the clause giving his Majesty in council a power to suspend the prohibition. He concluded with saying, that the best way would be to put off the consideration of the report to another day, by which means they would be able to come to a fair discussion of it.

Upon the question being put, "That these amendments be now read a second time," the House divided: Yeas, 28; Noes, 5. As there were not forty members present the House adjourned.

June 19. The report of the Hay Bill was taken into farther consideration, and agreed to. Upon the question, "That this Bill be read a third time,"

Sir *Peter Burrell* said, that he had remarked with concern, that whenever an opportunity offered for the landholder to promote his interest, a Bill was introduced to prevent his taking a fair advantage of it. In this point of view he considered the pre-

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sent Bill, for which he saw not the least necessity. Regarding it, therefore, as an oppression on the landholder, which was neither requisite nor expedient, he should move by way of amendment, that the word, 'now' be omitted, and the words 'this day three months' be inserted.

Mr. *Drake* conceived that there was an actual necessity for the Bill, and saw no pressure upon the landholder. It was, in his mind, a perfectly safe Bill, and an expedient and right measure; the more especially as the prohibition was limited, and the extent of its operation left to the discretion of his Majesty in council.

Sir *James Johnstone* said, that in his opinion the Bill tended unjustly to deprive the landholder and farmer of their property. The heavens, sir James said, had objected against the Bill, by raining ever since it had been brought in, and surely it was the duty of the House to submit to such high authority.

The Bill was then read a third time, and passed.

Debate in the Commons on the Bill for regulating the Scotch Burghs.] June 17. The several petitions from the Royal Burghs in Scotland being read,

Mr. *Sheridan* expressed his regret, that the unforeseen protraction of other important business had obliged him so long to defer a business of such importance, as moving for leave to bring in a Bill to regulate the internal government of the royal boroughs in Scotland. He stated his sense of the magnitude of the object to be submitted to the consideration of the House; declaring that he did not deem it necessary to enter into any explanation of the reason why such a motion was brought forward by a person not interested by local connexion or personal habits with the parties whose petitions were now before the House. The fact was, that every member who had a single right idea of the first principles of the constitution, and, of course, of the first cause of the prosperity of the country founded on that constitution, or who felt, as he trusted every member of that House did, an equal and common interest in the happiness and well-being of the two countries comprising the united kingdoms; was perfectly competent to investigate the proposition he was about to offer to the consideration of the House. Mr. Sheridan then adverted to the advanced state of the session, the uncommonly thin attendance which could be procured, even upon subjects in which the minister himself was particularly interested, and declared his reasons for not entering into the general merits of the question at this time, observing, however, that it fortunately happened that the present question was of such a nature as to admit of a perfect explanation in a single sentence. The evil complained of, by as respectable a body of petitioners as ever had approached the bar of that House, was, that certain enormous and inveterate abuses had prevailed, and did prevail, in the administration and government of the royal boroughs in Scotland, and that there existed no competent qualification to check and control these abuses, or to give redress to those who were injured by them. That certain self-elected magistrates and counsellors assumed a power of levying money upon their fellow subjects, without authority from law, and of punishing those who withstood them, by a partial and corrupt exercise of an illegal discretion; that those magistrates and counsellors claimed a right to dissipate the public property of their fellow citizens, and to neglect the duties of their own station, without admitting themselves to be accountable in any way, to those whose interests formed the only pretence for the existence of any power or superiority in those persons, a power and superiority necessarily forfeited the moment those objects were not attended to. The existence of those evils was proved by the petitions, and the want of a remedy by the decisions of the courts of judicature in Scotland, it having been determined, both in the court of session and in the court of exchequer, that as the law of Scotland stood, there was no remedy for evils and abuses which both courts admitted to exist, and to be productive of the worst consequences to the general interests of the community. Surely, then, if there ever was a justifiable ground of application to the legislature of any country, it was when those who were entrusted with the administration of the laws acknowledged the prevalence of some great abuse, and at the same time acknowledged, that there existed no legal mode of obtaining a remedy for it. Mr. Sheridan next explained the nature of the remedy proposed, in the Bill he wished to submit to their consideration. His object, for the present session, was only to give the members an opportunity of informing themselves; for which purpose, he should

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be content to have his Bill, which he then held in his hand, read a first time and printed. He complimented the character, firmness, and moderation of the petitioners, and the abilities and exertions of the gentlemen they had employed to manage their business; and concluded with a hope, that forgetting all national distinctions and narrow prejudices, he should find, on the next discussion of the subject, a very general disposition to diffuse principles of civil liberty to that part of the united kingdom which had hitherto partaken in our glory and in our dangers, without sharing the equal blessing of civil liberty, which England so fully enjoyed. He then moved, "That leave be given to bring in a Bill for correcting the abuses and supplying the defects in the internal government of the royal burghs, and in the manner of accounting for the property, annual revenues, and expenditure of the same, in that part of Great Britain called Scotland."

Sir *James Johnstone* would not give his consent to the bringing in of the Bill, being convinced that the evil complained of in the first part of the hon. gentleman's speech did not exist, and that the latter part was unnecessary, it being in the power of the Lord Advocate to compel an accurate statement of the revenues of each burgh.

Mr. *Anstruther* regretted that his hon. friend always brought the business forward at the close of a session, when it was impossible to be carried. His hon. friend had stated no specific grievances; but had confined himself to a general statement of grievances, to which he (Mr. A.) entirely objected, being fully convinced that no such grievances existed. With whatever specious appearance his hon. friend brought in the present Bill, it went effectually to a change in the election of representatives to serve in Parliament. His hon. friend not having gone into a detailed support of his Bill, he should not give a detailed opposition to it; and the rather, as he did not believe his hon. friend really meant to carry into effect the Bill he had moved for leave to bring in. With respect to the accounts of the annual revenues, he fully agreed with the hon. baronet, that those accounts might be now demanded by the Lord Advocate, who could insist upon the delivery of them in the same manner as the Attorney-general in England might demand an account to be made out of the revenues of the corporations in England.

Mr. *Dundas* said, that upon inquiry it would be found that the revenues of the Scotch boroughs were funds as well managed as those of any corporation existing; but if the hon. gentleman could prove the contrary, and demonstrate that frauds existed, he would be ready to concur with him in any motion he should propose to correct such abuses. So far would he go with the hon. gentleman in his Bill, but he would not follow him to that branch, which extended itself to the internal reform of the boroughs, which, however speciously expressed, was neither more nor less than a proposition to alter the charters of every corporation of Scotland, which charters existed at the time of the Union, and ought to be regarded as sacred. He could not avoid observing, that the hon. gentleman was, in his present motion, both long-sighted and short-sighted. He had, in his long-sight, discovered imperfections and corruption in the boroughs of Scotland, but at the same time, he was so remarkably short-sighted, that he could not possibly discern the imperfections and corruption in the English boroughs. The hon. gentleman had not stated a single circumstance against the Scotch boroughs, which might not with equal justice be stated against the boroughs in England; and it was his wish, that if the House agreed eventually with the hon. gentleman's Bill for a Scotch borough reform, that the hon. gentleman would extend the reform to both parts of the kingdom, and would be particularly careful not to forget Stafford. If the Bill was meant to effect a difference in the mode of election, he wished it boldly to be avowed.

Sir *Thomas Dundas* said, that the Bill meant to be brought in, was precisely the same in principle with that proposed by the corporation of Stirling, when the right hon. gentleman was Lord Advocate. With respect to that part of it which went to demand a statement annually of the revenues of the boroughs, he was convinced of its necessity.

Sir *Joseph Mawbey*, said, that in his opinion the Bill would prove the means of extending the rights of electors in boroughs. He wished the hon. baronet or some other gentleman would boldly stand forward and propose an extension of the rights of election for Scotch knights of the shire. Such a measure, if carried, would be of the most important service, and confer the greatest honour on the mover.

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Sir *James Erskine* was adverse to the motion, and contended that the evils complained of, had no existence.

Mr. *Pitt* said, that wishing to know the contents of the Bill, he was as desirous as any gentleman could be to have the motion carried. If it went to a reform, it would be one reason to induce him to be partial to it; but to the latter part he objected, conceiving the House would be guilty of a violent act in charging the boroughs with abuses, and giving a countenance to an infringement of their charters, before such abuses were made apparent. In what he had stated, he meant no obstruction to the Bill, but merely to suggest the propriety of adopting some other mode, by committee or otherwise, that might be more consistent with the forms of the House.

Mr. *Sheridan* said, that what had fallen from the right hon. gentleman, was perfectly fair and candid. He believed, that the right hon. gentleman's objection went only to a few words in the latter part of the motion, in which he saw no novelty or deviation from rule; but to gain his acquiescence, he was willing to alter the motion as recommended. He accordingly withdrew his motion, and instead of it moved, "That leave be given to bring in a Bill for regulating the internal government of the royal burghs in Scotland."

Upon this the House divided; Yeas, 54: Noes, 00. Mr. Sheridan immediately brought in the Bill, which was read a first time, and ordered to be printed.

Debate on a Petition from certain Witnesses on Mr. Hastings's Trial to be reimbursed their Expenses.] Major *Scott* said, that he rose to bring to the notice of the House a petition which had been presented from major Gilpin, captain Williams, captain Scott, and Mr. Holt, praying some compensation for the expenses they had incurred by attending for several months in London, either by a summons of the managers of Mr. Hastings's Impeachment, or by an order of the House of Lords, in consequence of the managers' summons. The major said, he would not do more than state the circumstances under which the several gentlemen were, at the time they were summoned; the compensation he would leave to the justice of the House, without presuming to make any motion upon the subject. Major Gilpin came home in 1785, was summoned from Lancashire to attend at the bar of the House of Commons, from March to July 1786, and was again summoned by the Lords, at the requisition of the managers, to attend as a witness, from January to June, in this year. Captain Williams was ordered to attend the House of Commons from February to June 1786. He also was examined at the bar of that House at that time. He was again summoned to attend in January 1788, and continued in daily attendance on the Lords, to the last day of the trial. It is true he was not called upon, though he could give most material and important information, if the managers really wished for the elucidation of truth; but it did happen that the managers, though they had expressly summoned captain Williams from South Wales, in order to examine him, had closed their proceedings without calling him to the bar as a witness. The managers had done this, when they knew he (Williams) could give very material information. Captain Scott, who was his brother, had been summoned from Shropshire in January. He had been examined by the managers, who thought, possibly, that his evidence, however important, did not tend to advance their cause, and, after three months attendance, permitted him to return to Shropshire, unexamined by the Lords. Mr. Holt, the fourth petitioner, stood upon very different grounds. He not only had been subject to very great expenses, but had actually lost the fair advantages of the services. The major said, he contented himself with merely relating the facts, as he trusted fully to the justice and the honour of the House to make the gentlemen a fair and honourable compensation.

Mr. *Pitt* pressed the necessity of settling all claims of the kind in question, and read the resolution of the committee of managers upon the subject.

Mr. *Sheridan* thought, that all the witnesses summoned at the instance of the managers were fairly entitled to come under the same rule of consideration, and that if there were any exceptions, those exceptions ought to be submitted to the special decision of the House.

Mr. *Burke* adverted to the propriety of distinguishing witnesses in narrow circumstances from those in affluence.

Mr. *Bearcroft* said, that it was common in civil cases for a witness to say, pay me my expenses, or I will not utter a word of evidence. In criminal cases the custom was necessarily different, and every man was bound to declare the whole truth.

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Major *Scott* said, the committee of impeachment had resolved that no person should receive a compensation, who was not in straitened circumstances. But he did not apply for relief upon such a plea: he was convinced that no officer would suffer any person to assert that he was in straitened circumstances, who could purchase daily at Dolly's a beefsteak and a pot of porter; but if those gentlemen who were settled in Wales, Lancashire and Shropshire, with moderate fortunes of 3 and 400*l.* a-year, with which they were perfectly happy and contented, were compelled to come to London, were kept for some months in lodgings, leaving their several establishments in the country, he would put it to the honour of the House, whether they ought not to be paid their expenses.

Mr. *Sheridan* hoped the hon. gentleman would allow the managers to judge for themselves, what witnesses were most proper for them to call.

Mr. *Burke* had ever understood, that all persons capable of giving evidence, touching the facts charged on the trial of a criminal cause, were bound by law to reveal all they knew upon the subject in question, without having any right to a claim for expenses, and that the same rule obtained in every species of parliamentary prosecution. The committee of managers had early in the progress of the business laid down several rules touching the expenses to be incurred, which, he had no doubt, the House would consider as wise rules; and, indeed, he trusted, that all their rules of proceeding would be found to be made on mature consideration. One of their resolutions went expressly to the payment of witnesses; but where there were particular exceptions, those exceptions ought to be considered on their particular merits. When a witness was in straitened circumstances, he ought, undoubtedly, to be considered, but not so in cases of a different nature. Suppose Mr. Middleton and Sir Elijah Impey attended at the instance of the committee of managers; surely, no man would be so absurd as to contend, that either of them ought to be paid for attending. The present conversation reminded him of a new discovery which took place in anatomy, at the commencement of the present year. A man had been dissected, when his heart had been found lying upon his right side, his liver on his left, and all the viscera out of place; so in the prosecution of Mr. Hastings, the committee of managers, who might naturally be supposed best acquainted with what their own witnesses could prove, it appeared, did not know half so much of the matter, as the friends of Mr. Hastings, who had taken the witnesses against the prosecution into their protection. With regard to captain Williams case, they had nothing to do with it, but it lay (where it ought to lay) with the House, who naturally would refer it to the decision of the solicitors for the prosecution to decide upon. With respect to Mr. Holt, he knew that gentleman was not in great circumstances, and that he would be a sufferer by being detained here in England; but he thought the court of directors were bound to take care that none of their servants appointed to lucrative offices in India, and detained here in consequence of their being called upon to give evidence on the trial of Mr. Hastings, should substantially be sufferers by such a detention. Mr. Burke questioned the fact of the petitioners having applied to the solicitors, and not having received satisfaction. He stated to the House the directions he himself had given the solicitors how to act upon all applications of a similar nature.

Here the conversation ended.

Debate in the Lords on the African Slave Bill.] June 25. The House having resolved itself into a Committee on the Bill "for providing certain temporary regulations respecting the transportation of the natives of Africa, in British ships, to the West Indies, and elsewhere,"

Earl *Bathurst* rose, and argued against making the Bill retrospective. He contended, that all "ex post facto" laws were unjust; that the present Bill would be particularly so; and that no compensation the legislature could propose, could possibly meet the case. The merchants had embarked their adventures before the Bill was proposed, and it was to attach upon them from the 10th of June, and thus subject them to the certainty of a loss, after they had put themselves to the whole expense of an adventure.

Lord *Rodney* said, it was absurd to suppose that the merchants, whose profit arose from the number of healthy Africans they landed in the West India islands would not attend to their own interests, and take every possible care to preserve their health. Every voyage was attended with its inconveniences, but the voyage to

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Africa, and from that coast to the West India islands, was not, generally speaking, attended with greater inconveniences than other voyages. He had not heard any evidence to prove, that the Africans were treated with peculiar hardship, in the voyage to the West Indies, or that there was reason to suppose that they would be so treated. Why, then, after the general question had been postponed till the next session, need the House be so much in a hurry to take up a part of the consideration? He reminded the House, that the French government acted in a very different manner respecting the African Trade; and that, so far from wishing to curb and cramp it with needless regulations, they gave large premiums upon every negro landed on their islands in the West Indies. In some instances they gave as much as 200 livres per head, in others 100 livres. The islands of St. Lucie, Tobago, and St. Domingo were in that manner provided with Slaves. If therefore, we deprived our own merchants of the power of carrying on this traffic, we should insensibly increase the power and advantages of the French in that respect. What our merchants lost, theirs would gain—a consideration that he thought worthy their lordships' most serious attention. Exceedingly important were the West India islands to our commerce and navigation, and he could appeal to the noble lord (Heathfield) behind him, whether he did not think the Bill unnecessary, and likely rather to introduce evils than benefits.

Lord *Heathfield* said, that since the question was addressed to him, he must own it to be his private opinion that the Bill was unnecessary. He had a good deal considered the subject, and though perhaps few others had given themselves the trouble to inquire into, and ascertain the number of the cubical feet of air breathed by the Africans on board the vessels usually employed in transporting them from their own coast to the West India islands, he had done so, and compared it with the number of cubical feet of air breathed by soldiers in camp. Soldiers in their tents were allowed about 17 cubical feet of air each, whereas the African slaves were severally allowed full 30. His lordship reasoned on this calculation, and after objecting to the Bill's commencing its operation so early, professed himself a friend to the African merchants, whose interests he thought would be materially and unjustly affected by the Bill.

The Duke of *Richmond* contended, that the proper subject of discussion was, merely the amendment necessary in the clause before their lordships; but as the noble lords who had already spoken had gone into the principle of the Bill, he must beg to say a few words in reply. The noble lords, both of whom stood so high in their respective professions, had relied a good deal on the natural humanity of those concerned in the African Slave Trade. Unfortunately, the subject of the present Bill was one of those in which considerations of private interest might be supposed to bear down and supersede the feelings of humanity. The noble lord who spoke first had suggested, that as the profit of the merchant depended on the number of healthy slaves he landed in the West Indies, he necessarily would not stow more together on ship-board, than could exist in safety, and without risk of disease. That argument was fallacious; because if 400 Africans only could be stowed without danger of sickness, the insuperable avarice of those concerned in the traffic might induce them to cram 500 on board; since if they lost fifty out of the fifth hundred it would still be worth their while. If their lordships would calculate, they would find, that according to the evidence, taking the fair measurement of the vessel, upon a moderate calculation, according to the customary stowage of the African ships, no room was allowed for passages, but the whole deck was strewed with human bodies. With regard to the French giving premiums on each negro landed, he saw no occasion for us to follow the example; and he trusted that this nation would not barter its humanity so basely. In answer to what another noble lord had said, respecting the number of cubical feet of air allotted to a soldier in camp and an African on board a trade ship, the two cases bore no analogy to each other. Soldiers were put six in a tent, but then they not only had free egress, and were seldom all six in it for a long time together, on account of military duty, but the canvas of their tents was not generally of so close a texture as to exclude all air, much less to reduce the air they breathed to that state of unwholesomeness that could easily be imagined to be the quality of the air breathed by African slaves stowed close together, between decks, on board of the transport ships. With regard to there being no evidence of the severe treatment of the

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Africans while on board, abundance of evidence might have been adduced in support of the Bill, had it been necessary; but as it was merely a Bill of regulation, he had forborne to bring before their lordships evidence of the many horrid cruelties that could have been proved to have been practised, and the recital of which must have shocked their lordships. The Bill certainly stood in need of a variety of amendments. He intended to propose a clause to give a compensation to all those merchants whose ships were already sailed, or would be in Africa at the time that the Bill should pass, for the losses they would incur from the Bill attaching upon their ships retrospectively. No fair argument, therefore, could be grounded against the Bill, on account of its retrospective operation. In respect to the day on which the Bill was to commence, it certainly ought not to stand the 10th of June; but it was to be remembered, that the Bill had been introduced into the other House so early as the 2d of June; the blanks had therefore been filled up with the 10th of June, from an idea that it might possibly pass about that time.

Lord *Hawkesbury* said, the Bill must have a commencement; the question therefore was, at what period its operation should begin? His opinion was, that it ought to commence from some day after the Bill should pass into a law, and attach upon every ship that might sail from any British port after the day of its commencement; and as to the ships already sailed, or in Africa, only from the day that the Bill should be served upon such ship; for nothing could be more unjust than to make any ship captain, crew, &c. liable to a penalty before they could possibly know, that any such penalty was declared to be legal. He therefore moved, That the operation of the Bill should commence from the 10th of July next.

The *Lord Chancellor* presumed that the wish of their lordships was to pass some bill of regulation; but as the Bill stood, it was nonsense. He therefore concluded that some amendments would be proposed to connect the nonsense of one part of the Bill, with the nonsense of the other. He pointed out the words, "the 10th of June," as stated in one clause to be the period of the commencement of the operation of the Bill; and said, that in a subsequent clause at some distance, mention was made of such ships as had sailed before the 10th of June, although in the former part of the Bill, no notice whatever had been taken of any thing in the Bill being to affect ships that had sailed before the 10th of June.

Earl *Stanhope* considered the Bill to be as ill worded, in respect to its clauses, as any Bill ever introduced into that House; but that its principle was undoubtedly founded in humanity. It was therefore their lordships' duty, to correct and amend the clauses, so as to make them correspond with its principle, and thus remove all objection to the Bill. As several of their lordships were not present on Saturday, when the counsel were heard against the Bill, he would state what those objections had been. In the first place, the counsel had objected that the whole of the scale adopted in the other House was wrong; and that exactly the reverse of that scale was the true proportion of the number of Africans to the number of tons of each ship, according to the principle of the Bill, and the avowed intention of its supporters. Earl Stanhope explained this, by showing that as the Bill stood, three men to two tons were to be allowed to all ships of 100 tons, so that such ships were to carry 150 Africans each; but if the ships were upwards of 100 tons, the number of Africans, proportionably to the tonnage, was to diminish; by which means a ship of one size would carry 250, and a ship of a greater size would, as the Bill stood, carry only 228 Africans. This was undoubtedly absurd, and must have been a mistake; but it was easily remedied by an amendment, regulating the first proportion to the 100 tons, and then adding a smaller number as the tonnage increased, by which scale, a ship of 100 tons would have a right to take 150 Africans; a ship of 101 tons, 151, and so on, adding one African for each additional ton. This would create a regular, clear, and unobjectionable rise of the scale, governing that rise, however, strictly by the increase of tonnage. Earl Stanhope took notice of the argument of lord Heathfield relative to the comparison of soldiers in a tent to Africans on board, and denied that it bore the smallest analogy. The Africans were packed between decks on platforms, like books on shelves, and were thought to be perfectly at their ease, if they had just room enough to turn. Was that the case with soldiers in a tent? Most undoubtedly not. The air breathed between decks by the Africans was rendered putrid by the closeness of the space and their own respiration; whereas a tent

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was all outside, and constantly replenished with fresh air. His lordship, in this part of his speech, introduced some philosophical remarks on the nature of air as breathed by mankind. He said, it had been recently discovered, and the discoveries were as beautiful as they were instructive, that the air we breathed was not homogeneous, as had heretofore been conceived, but that it consisted of one part only that was vital, and by which we lived, and that one part was mixed with four other different fluids. That by being confined to a short space, by breathing the same air over and over again, the vital air became tainted, as in the black hole in Calcutta, and thence the danger of death. Thus, confine an animal to a very close place for some time, he would breathe the same air so often, that at last he would drop down dead; and, if it were possible to confine the air in which their lordships were at that moment for a length of time, the inevitable consequence must be, that they would all drop down dead. If the noble duke had not intimated an intention to move a clause of compensation for the losses which those merchants whose ships had already sailed, would sustain in consequence of the Bill attaching upon their ships, he certainly should have offered such a clause. With regard to the commencement of the operation of the Bill, the date must certainly be altered from the 10th of June, but he conceived that the sooner the Bill commenced after it should pass the better.

The *Lord Chancellor* said, that from what had fallen from lord Rodney, it was evident the French had offered premiums to encourage the African Trade, and that they had succeeded. The natural presumption, therefore, was, that we ought to do the same. For his part, he had no scruple to say, that if the five days fit of philanthropy which had just sprung up, and which had slept for twenty years together, had continued to sleep one summer longer, it would have appeared to him rather more wise than thus to take up a subject piece-meal, which it had been publicly declared should not be agitated at all, till the next session of parliament. Perhaps, by such imprudence, the slaves might be taught, of their own accord, to proceed to an abolition of the Trade. His lordship made some remarks on the evidence, in order to show, that the African merchants, trusting to the declaration, that the question should not be agitated that session, had embarked their all in the ships already sailed, and would be ruined by the Bill. One witness, he understood, had come to their lordships' bar, with a face of woe, his eyes full of tears, and his countenance fraught with horror, and had said, "My Lords, I am ruined if you pass this Bill. I have risked 30,000*l.* upon the Trade this year. It is all I have been able to gain by my industry, and if I lose it, I must go to the hospital." The chancellor pressed this point upon their lordships' most serious consideration.

The Earl of *Carlisle* expressed some astonishment that the learned lord should talk of a five days fit of philanthropy, when it was a matter of public notoriety, that the question of the Slave Trade had engrossed the attention of every part of the kingdom for above these twelve months, and that innumerable petitions had been presented to parliament on the subject. He declared himself a hearty friend to the present Bill, which was merely a bill of regulation, and did not interfere with the general question which had been postponed to the next session. But were it practicable, he was prepared to vote for the abolition of the Slave Trade altogether, and had not a doubt but the ingenuity, enterprise, and adroitness of British merchants would find out a new African Trade, equally advantageous and useful, though not liable to the same objections, were an abolition of the Slave Trade to take place. He considered the Bill as the corner stone of an edifice which the parliament had wisely determined to erect, in honourable commemoration of their humanity; and he trusted that he might venture to predict, that the ensuing session would be distinguished by the completion of so glorious a superstructure.

The Earl of *Sandwich* said, that when matters were thrown out in debate which might make unwarranted impressions abroad, he thought it his duty to combat them. He had heard it declared, that the African Trade was the bane of British seamen, and that Africa was their grave. He denied the fact. He knew, from experience, that a voyage to Africa was not less healthy than any other voyage. It was not the African climate that killed the seamen, but the spirituous liquors with which the captains of the merchant ships supplied them. Their wages were undoubtedly great, but they took their wages in spirits and, as they would do in any other situation of the globe, they died in consequence of drinking spirits.

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in quantities. If we relinquished the Slave Trade, would there be one African slave less? Most undoubtedly not. The French would not relinquish the Trade; and as all the seamen bred up in the African Trade would be lost to this country, they would be gained by France. He complained of our merchants having been last war allowed to supply the French islands with slaves. He ridiculed the idea of a new trade to Africa being likely to be discovered, as visionary and speculative, since Africa afforded merely gold dust, gums, and spices, which were packed in so small a compass, that two or three ships would be sufficient to convey the whole of those objects of commerce. He scouted the doctrine of a compensation as impracticable, and asked, whether the American loyalists, though relieved from present misery, could be said to have been fully compensated? He admitted, that regulations were necessary, and would support every proposed regulation that should appear to be wise and adequate to its end.

The Earl of *Hopetoun* supported the Bill, and said, that if it had been thought necessary to produce evidence in support of it, he was persuaded that the scruples entertained by some of their lordships would have been effectually removed. If it were thought proper, evidence was still ready to be brought to the bar. He complimented lord Sandwich on his knowledge of naval affairs, and bowed with submission to such high authority, but he could not help taking notice of the arguments relative to our African merchants having been suffered to supply the French West-India islands last war, declaring, that when he considered whose duty it had been to guard against the mischiefs now stated to have produced ruinous consequences, he was perfectly astonished at hearing such an argument come from the quarter from whence it had proceeded. He spoke also of the revision of the slave laws, which the house of assembly of Jamaica had entered upon, and the new regulations which they had made for the punishment of all who killed, or ill-treated a negro. This proved that the planters were as anxious for regulation as we were; that they were determined to run the race of humanity with us.

The Duke of *Chandos* said, that since his entrance into the House, the paper which he held in his hand, and which had not been many hours before received from Jamaica, was given to him for his perusal. It was a letter to Mr. Fuller, the agent for Jamaica, acquainting him that his correspondents in the island had received his communications of the 10th of February and the 12th of March last; that in consequence the negroes expected an end was to be put to their slavery; that there was the greatest reason to expect that they would rise in consequence, and that the island was in a state of great alarm and apprehension. The duke added, that he had many more corresponding accounts, which he would not then trouble the House with, but as often as the Bill was agitated, he should think it his duty to warn their lordships of the danger that any agitation of such a subject was liable to.

The Bishop of *London* desired to know what was the kind of compensation intended to be given to the African merchants whose ships had either already sailed or were upon the coast of Africa.

Marquis *Townshend* hoped that a due compensation would be given to those merchants who were likely to incur losses by the Bill. No man could entertain a stronger dislike to what were called "ex post facto" laws than he did, and he never would consent to any such, without guarding the individuals liable to be affected by them against their danger, as much as possible. The Portuguese, who were a commercial nation, allowed but one slave to one ton; and did it become this country to be outdone by any other nation in humanity?

Lord *Sydney* professed the highest respect for the characters of those gentlemen with whom the Bill had originated in the other House, and gave them full credit for the purity of their motives; but notwithstanding his conviction, that both the one and the other deserved every degree of confidence and esteem, he could not but confess, that he wished the humanity of the African merchants had been relied on for a few months longer, and that it had been taken for granted, that pledged as the legislature was to discuss the general question fully next session, the merchants would not have abused their own characters so much as to have rendered themselves obnoxious to parliamentary censure when the subject should be taken into consideration. The question of the Slave Trade was too serious to be frequently agitated; being once brought under discussion, it must be decided; it could not be again and again agitated with any sort of safety. He therefore wished the whole

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of it had been reserved entire. Adverting to the system of slave laws mentioned by lord Hopetoun, he observed, that they had been transmitted to his office, and from the attention he had been able to pay them, he found them so perfectly well adapted to the subject, that he did not see room for the addition of a single clause. He bestowed much panegyric upon their wisdom and promise of efficacy; and said, that a few months ago the humanity of the very same gentlemen, perhaps, who had brought in and supported the present Bill, had prompted them to raise a subscription to transport the Africans and Lascars, that were to be seen begging in every corner of almost every street, to Africa. The project was put in execution, and captain Thompson, a most deserving officer, was entrusted with the conduct of their transportation. He had conversed with captain Thompson both before his setting sail on the expedition, and since his return from it; and the captain had assured him, that when the Africans and Lascars arrived at the place of their destination, they expressed the utmost anxiety to be any where else; and the Africans would have rejoiced at an opportunity of escaping back to the West Indies, and becoming slaves to the planters again. The event was, the Lascars did there as in London; they laid about the woods till they perished, and the few whites, who, led by false principles of humanity, or lured by an idle spirit of adventure, had chosen to accompany them, all died after reaching the shore, almost in as little time as he had taken to state the facts.

The Duke of *Chandos* defended what he had before stated, relative to the danger likely to result from the agitation of the subject, and said he should think it his duty again and again to warn their lordships on that head. The universal massacre of the whites might be the consequence; and surely that was too fatal a catastrophe to be thought of with levity, or treated with ridicule. He must be permitted to know rather more of the West India islands than most of their lordships; and it was his duty to lay the result of his acquaintance with the customs of those islands before their lordships. The negroes read the English newspapers as constantly as the ships from England came in; and from what was then doing, they would conclude their final emancipation was at hand.

Lord *Rodney* said, he had spent four years at Jamaica, the years 1770, 1, 2, and 3, and that he was present in court, when a white man was tried and convicted for the murder of a negro, and afterwards condemned and executed. The laws, therefore, which were so much boasted of by the noble earl as novelties, were old laws, and had existed in the West India islands many years. He had never heard of a negro being cruelly treated in all the time he had been in the West Indies, but had often spoken of their happiness in terms of rapture, declaring that he should rejoice exceedingly, if the English day labourer was but half as happy. He asserted that the British seamen employed in African voyages, were killed by the spirits they drank, and not by the climate; and that the Africans on board a ship, complained more frequently of cold than heat.

Marquis *Townshend* disdained being influenced by any reports of a probable massacre of the whites, or other ill consequences resulting, when he was doing a right thing as a legislator; nor could he suppose the negroes would be induced to rise, because parliament was intent on granting them some relief. He should rather imagine that it would induce them to wait with patience in their situation, and beget a confidence in their minds, that what could farther be done for them, consistently with national wisdom, would be effected next session. If it were true, that the negroes in the West Indies were twice as happy as the English day labourers, he thought that instead of rising in a few days, parliament ought to sit all the summer, in order to put the English yeomen on a footing with the West-Indian negro slave.

The Duke of *Richmond* said, that his noble friend had relieved his mind from a considerable share of doubt, by declaring that the negroes in the West India islands read the English newspapers. If they did, they would know what the British parliament was about, and could not possibly imagine that they ought to rise, because parliament had granted them some alleviation of their miseries.

The Earl of *Sandwich* said, he had not uttered one word against the Bill. On the contrary, he was for it. He had declared that some regulation was necessary, and he would give his support to every amendment that went to make the Bill more useful, without touching on the gen-

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eral question. In the course of his speech, he dropped a word relative to the Lord Chancellor's expression of a five days' fit of philanthropy.

Lord *King* thought the Bill ought not to commence till some time in August or September; that as to a retrospective law, that House could not think of it, because it could not be other than an act of glaring injustice. With regard to a compensation, it was out of their power to give an adequate one. They might indeed open a door to endless fraud and abuse, since if they inserted a compensation clause, the inevitable consequence would be, the honest would not be sufficiently paid for their losses, and the fraudulent would be considerably over-paid.

The Committee proceeded to fill up the blanks. After which the chairman reported progress, and asked leave to sit again.

June 30. The House being again in a Committee on the Bill,

The Duke of *Richmond* proposed his promised compensation clause. The clause stated, that as cases might arise, in which it might be proper to make compensation to the merchants engaged in the African Trade, in consequence of the Bill's attaching upon their adventures either prepared for sailing, or already sailed for Africa, certain commissioners should be appointed under the great seal, to whom the said merchants were to apply on or before the 1st of August next, in order to ascertain the nature and terms upon which their claims were to be made out.

The *Lord Chancellor* contended against the clause as inadequate to the purposes for which it was introduced. He objected to the wording of the first part of the clause, which only supposed that cases might arise, in which it might be necessary to allow compensation to the merchants concerned in the African Trade. He said that every one of their lordships must be aware that, as the Bill, by retrospectively attaching upon the merchants adventures, would take them by surprise, and subject them to considerable loss, there would indubitably be many claims for damage so sustained, and that it was incumbent on parliament to consider the satisfaction of such claims as a debt of natural justice, and provide for the same accordingly. He next wished rather to have the quota of compensation to be allowed the merchants assessed by a jury, than by any set of commissioners whatever. He remarked, that there were various possible cases which might entitle the merchant to compensation; but, for the sake of illustration, it was not necessary for him to state more than two. The one was, where the merchant's ship was not yet sailed, but the outfit, apparel, and all the necessary equipment and preparation bought and ready for the voyage. In that case, taking it for granted that the Bill by its operation limited the probable profit of the adventure one sixth part, (by limiting the number of negroes to be received on board, in that proportion,) the merchant ought, in his mind, to be compensated for the sixth part of his profit so lost to him. Another case was that of the merchant, whose ship was already sailed, and would have arrived at the coast of Africa, before the Bill should be served upon the captain. In that case, the whole expense of the adventure having been incurred, and the captain being by the service of the Bill upon him, restrained from making the full advantage of it, the merchant had an undoubted right to a compensation from the public, adequate to the proportion of loss sustained in consequence of the limitation enforced by the Bill. Nothing could be more easy than to ascertain the respective amounts of the compensation proper to be made in these two cases. In the first, if any man were to go upon change at Liverpool, and ask what would be the difference of profit on an adventure to the coast of Africa in an unlimited state, where the merchant was allowed to make the most of it, or in a limited state, as prescribed by the Bill, he would immediately be told the amount of that difference. And the amount of the other case was, in like manner, equally easy to be ascertained, but in both they ought rather to be left to a jury than to commissioners; a jury being accustomed to assess damages, were, undoubtedly the best resort in cases of that nature. If commissioners were to be the assessors of the compensation, they ought, at least, to be directed in express terms how they were to act, and not to be vested with the powers of legislators; nor should they be limited to one meeting, as it would be impossible for the merchants to make out all their losses before the 1st of August; indeed, they would not by that time be themselves apprized of the amount of the losses incurred by the attachment of the Bill on their ships already in Africa.

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The Duke of *Richmond* said, that with regard to the wording of the clause, he could not agree that it afforded much ground for objection. The learned lord would surely allow, that there might be cases, in which it might not be right to grant any compensation whatever. Nor did it follow, as a matter of course, that the African merchants must necessarily be losers in consequence of the operation of the Bill. It was true, the number of Africans to be taken on board the ships was limited, and perhaps in the proportion of a sixth; but then, as it was highly probable that the number of negroes which the Bill limited the captains to receive on board would arrive in full health at the West India islands, they would prove the more valuable, and fetch a larger price than heretofore; the merchant's profit therefore might not be less than it had been hitherto. With regard to the indubitable claim of the merchants to a compensation, on which the learned lord had laid so much stress, he begged their lordships to recollect what the object of the Bill was, and to remember, that the ground of it was a general understanding, that the transportation of Africans from their own coast to the West Indies was so conducted at present, that from the manner of stowing them, men were necessarily subject to lose their lives. That being the case, he had a right to argue, that such a Trade was illegal; because merchants had no right to carry on a Trade that necessarily subjected men to lose their lives, and instead of having a claim for compensation for the loss sustained by discontinuing such a Trade, deserved to be treated in a very different manner; but he was willing to wave that argument, and to consent that a reasonable compensation should be given to them. He never could agree that a Liverpool jury were the most proper persons to decide the amount of such a compensation. In answer to the argument, that commissioners were improper, the duke quoted the recent practice of parliament in appointing commissioners to ascertain the claims of the inhabitants of East Florida, and the American loyalists, in order to assess the amount of the compensation to be made them for their respective losses, and assigned his reasons for deeming commissioners to be equally proper in the present instance.

After some further conversation, the Committee divided: For the clause, 14; Against it, 12. On the 1st of July the Bill was reported, and on the 2nd it was read a third time, and passed.

The Bill being returned to the Commons, and some of the amendments being thought to trench on the privileges of that House, the consideration of the said amendments was postponed for three months. A new bill was immediately brought in, which passed both Houses.

The King's Speech at the Close of the Session.] July 11. His Majesty came to the House of Lords, and put an end to the session with the following Speech to both Houses:

"My Lords and Gentlemen;

"In the present advanced season of the year, and after the laborious attendance which the public business has required of you, I think it necessary to put an end to the present session of parliament. I cannot do this without expressing the satisfaction with which I have observed the uniform and diligent attention to the welfare of my people, which has appeared in all your proceedings.

"Gentlemen of the House of Commons;

"The cheerfulness and liberality with which you have granted the necessary supplies, demand my particular acknowledgments. It must afford you the greatest satisfaction that you have been enabled, without any addition to the burthens of my people, to provide for the extraordinary exigencies of the last year, in addition to the current demands of the public service, and to the sum annually appropriated to the reduction of the national debt.

"My Lords and Gentlemen;

"I see with concern the continuance of the war between Russia and the Porte, in which the emperor has also taken a part. But the general state of Europe, and the assurances which I receive from foreign powers, afford me every reason to expect that my subjects will continue to enjoy the blessings of peace.

"The engagements which I have recently entered into with my good brother the king of Prussia, and those with the States-general of the United Provinces, which have already been communicated to you, are directed to this object, which I have uniformly in view; and they will, I trust, be productive of the happiest consequences in promoting the security and

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welfare of my own dominions, and in contributing to the general tranquillity of Europe."

The parliament was then prorogued to the 25th of September. It was afterwards further prorogued to the 20th of November.

*Proceedings of the House of Lords on the King's Illness.**] Nov. 20. Both Houses met pursuant to the last prorogation.

The *Lord Chancellor* having taken his seat on the woolsack, rose and remarked, that although their lordships were assembled in pursuance of the last prorogation, yet it had been the general practice to summon the House to meet for the dispatch of business. To account for this omission on the present occasion, he thought it incumbent on him to observe, that, from the situation which he had the honour to hold, it was his province to receive his Majesty's commands for either proroguing or summoning the parliament, but such was the lamentable disorder under which his Majesty had become afflicted, and such the severity of his illness, that he could not approach his royal person to receive the signification of his commands.

The *Lord President* [earl Camden] observed, that it had been the general practice to give forty days notice previously to the meeting of parliament for the dispatch of business. There was no law, however, which required this, notwithstanding it had been a custom in general adopted by his Majesty's ministers to prevent any complaint from the House of their being taken by surprise. There were, however, several precedents in the history of this country, where in cases of rebellion, and other emergencies of state, parliament had been summoned, on a notice of fourteen days, and he conceived the critical situation of his Majesty's health a sufficient reason to justify the present deviation from the usual practice. He did not, indeed, find any instance in which either House of parliament had proceeded to the consideration of any national business until the session had been opened in the usual form. It was his intention, therefore, first to move, "That the House do adjourn to the 4th day of December;" and if their lordships should agree to this motion, he would then move, "That the House be summoned, and that the Lord Chancellor be directed to write letters of summons to their lordships, requiring their attendance upon that day."

The motions being severally put and agreed to, *nem. diss.* the House immediately adjourned to

Dec. 4. The House being met pursuant to adjournment,

The *Lord Chancellor* begged leave to acquaint the House, that in obedience to their commands he had sent letters round to every peer, earnestly requesting their attendance, and that he had received letters in answer from such lords as were then absent, stating that their absence was caused by illness, and that they hoped for their lordships' indulgence.

The *Lord President* of the council said, that he could not perceive without much concern that their lordships had again been obliged to assemble, although it was not possible that any speech could, at the present period, come from the throne. This obstacle too naturally arose from the continued infirmity of his Majesty, which still rendered him incapable of meeting his parliament, or attending to any public business whatever. In consequence of the absence and incapacity of the King, the legislature was defective and incomplete, whence all the functions of the executive government of the country were actually suspended. It was impossible for the country to remain in that condition; and, in the maimed and dismembered state of the legislature, it devolved on the two Houses of Parliament to make

* In the autumn of 1788, all ranks were alarmed by a report, that his Majesty was seriously indisposed. Resolved, notwithstanding illness, to perform the functions of his royal office, his Majesty, on the 24th of October, held a levée; and though it was obvious to every one present, that his Majesty's health was materially affected, yet no symptoms indicated any definitive species of malady. On the King's return to Windsor, his disorder assumed a very alarming appearance. It was found that it had formed itself into a brain fever, attended with a delirium. The mental derangement having continued to the beginning of November without any intermission, at length became public; and the intelligence diffused general grief and consternation. The Prince of Wales repaired immediately to Windsor, where he was met by the Lord Chancellor, and they, in concert with the Queen, took such measures relative to the domestic affairs of the King, as the necessity of the case required.

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some provision to supply the deficiency, and such a provision as should be competent to the necessity of the case; but, before the two branches of the legislature took any one step on a subject of so truly delicate and important a nature, the necessity of the case must be proved. With that view, therefore, and with that view only, the Lords of the Council had called the five physicians who attended his Majesty during his illness before the Board, and had severally examined them on oath as to the state of the King's health, and their opinion of the duration of his malady, and the probability of his recovery. This, (although the Lords of the Council had, as it were, lost the spring and motion of most of their consultations and functions) he conceived the Board might legally do, as the precedents of their proceedings under former similar situations of the country sufficiently evinced. It had not been deemed wise or proper, that every question which on a sudden might start into the head of any individual Lord of the Council, should be put to the physicians, and therefore it had been settled what questions should be proposed to them, and by whom, previously to their having been called into the Board Room, and a minute of the whole examination had been taken down in writing at the time. With the leave of their lordships, he would present a copy of the minute of the questions which had been put to the physicians, and their answers; from which their lordships would know authentically what was the state of his Majesty's health, and the opinion of his physicians as to the probability of his recovery.

The question having been put, that the minute be presented, it was ordered. The physicians examined were Dr. Warren, sir George Baker, sir Lucas Pepys, Dr. Reynolds, and Dr. Addington. The first question to each of them respectively was, "Whether his Majesty's indisposition rendered him incapable of meeting his parliament, and of attending to any sort of public business?" To this they answered, "That certainly he was incapable." The second was, "What is your opinion of the duration of his Majesty's malady, and of the probability of a cure?" To this they answered, "That there was a great probability of his recovery, but that it was impossible to limit the time." The third question was, "Do you give this opinion from the particular symptoms of his Majesty's disorder, or from your experience in complaints of a similar nature?" To this their general answer was, "That it was from experience, and having observed that the majority of those who were afflicted with the same disease had recovered." Dr. Addington, in his answer to this question, was more decisive than any of his brethren. He said, that he entertained as sanguine hopes of his Majesty's recovery as he would of any other patient who was afflicted with a similar complaint which was not hereditary: that he had a part of his house allotted for the reception of patients labouring under such disorders, with which he was particularly conversant; that he seldom had less than eight or ten under his care, and that he never knew more than two of them who had been confined above a twelvemonth, and those two had been afflicted for several years, and were deemed incurable before he saw them.

After the report was read, the Lord President moved, that the same be taken into consideration on Monday, which was agreed to.

Dec. 8. The House being met,

The Marquis of *Stafford* [Lord Privy Seal] rose and desired their lordships would permit him, in the absence of the President of the Council, to call their attention to the proceedings of their last meeting relative to the melancholy situation of his Majesty's health. The report of the examination of the physicians before the Privy Council had been submitted to their investigation, and they were met to determine whether they could rest satisfied with that examination, or whether they would appoint a committee of their own to re-examine them. For his own part, though his mind was perfectly made up on the subject, yet, as he understood doubts had been entertained of the propriety of their lordships receiving the report from the Privy Council, he was willing to take the sense of the House on that question, by moving that a Select Committee should be appointed to examine the two physicians who had been called to attend his Majesty since the former examination, and also to re-examine those physicians who had come before the Privy Council, and whose report was then before the House.

The Duke of *Norfolk* said, that he thought the report already made by the physicians concerning the melancholy state of his Majesty's health, which they

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agreed in pronouncing to be such as to incapacitate him from exercising the duties of his situation, sufficient, as to the mere point of information. It was necessary, however, before their lordships could ground any motion on that report, that it should be authenticated either at the bar, or before a committee of their own number.

The Marquis of *Stafford* trusted, that the House would agree with him in thinking, that the examination ought to be before a committee, rather than at the bar of the House. It was a subject of such delicacy, that too much precaution could not be taken, nor too much decorum observed in their proceedings, lest they should wound not only the feelings of the Royal Family, but, he would add, the feelings of a whole kingdom.

The Earl of *Derby* said, that the utmost decorum ought undoubtedly to be observed in the investigation of a subject of so much delicacy. He, however, thought that the House could not receive the report from the privy council in its present shape, and that it was absolutely necessary that they should re-examine the physicians by a committee of their own, before they could proceed to the consideration of it. It was the invariable practice of their lordships, even in receiving a Bill from the other House, to call evidence *de novo*, to their own bar, because they never admitted as proof the examination of witnesses taken elsewhere. In the present case it was the more necessary, as the House ought to know what had been the state of his Majesty's health since the former report was made.

Lord *Porchester* could not admit the idea of their lordships receiving a report from the privy council in any shape. It was the absolute and inherent right of that House to insist upon and to demand such an examination before they could move a single step in the business. With respect to the examination that had already taken place, it had gone much farther than, in his opinion, was necessary. The physicians had unanimously declared, that his Majesty was unfit for exercising any of the functions of the executive government. That circumstance alone was sufficient to enable the other two branches of the legislature to supply that deficiency. It was not necessary to enter at all into the question of the probability of his Majesty's recovery. The present object was to provide an effective and adequate power for those duties which his Majesty was at this period unhappily incapable of exercising.

Lord *Loughborough* defended the undoubted right of the House to refuse the report of any proof or examination taken before the privy council. It certainly was no evidence in the House of Peers. He approved of the appointment of a select committee in the present instance, in preference to an examination at the bar, as it was more decorous, and equally agreeable to the usage of Parliament. He could have wished, however, that the investigation had been carried on by the joint co-operation of both Houses, for which he found there was a precedent on the Journals in the year 1671.

The Marquis of *Stafford* assured the learned lord, that he had considered the precedent alluded to, and that it was in contemplation to have followed it; but he feared that it would have been attended with inconvenience on account of the number of the committee appointed by the Commons, being so much greater than that of the Lords. He then moved, 1. "That a select committee be appointed to examine the physicians who have attended his Majesty during his illness, touching the state of his Majesty's health, and to report such examination to this House. 2. That the said committee do consist of twenty-one Lords. 3. That each peer do deliver in to the clerk a list of twenty-one Lords, signed with his name, on the next sitting day of the House." Agreed to *nem. diss.*

Dec. 9. The House met to ballot for the said committee. The following is a list of the peers on whom the ballot fell: the Archbishop of Canterbury, the Lord Chancellor, Archbishop of York, Lord President, Lord Privy Seal, dukes of Norfolk, Richmond, Chandos, and Portland, earls of Derby, Salisbury, Fitzwilliam, Chatham, and Carlisle, viscounts Stormont and Weymouth, lords Grantley, Loughborough, Sydney, Osborne, (Marquis of Carmarthen), and Kenyon. Notice was then given, that the physicians attended, agreeably to their lordships' summons, and, upon motion, they were ordered to be called in, and sworn.

Dec. 11. The Report from the Committee appointed to examine the physicians who have attended his Majesty during his illness, touching the state of

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his Majesty's health, was made by the Lord President; and, upon motion, was read by the clerk, as follows:

By the Lords' Committee, appointed to examine the physicians who have attended his Majesty during his illness, touching the state of his Majesty's health.

Ordered to report,

That the Committee have met, and examined the several physicians who were sworn for that purpose at your lordships' bar; and the evidence given by them before the said Committee was as follows:

Dr. *Francis Willis* called in, and examined.

You are desired to acquaint the Committee, whether the state of his Majesty's health is such, as to render him incapable of coming in person to his Parliament, or of attending to any kind of public business?—Certainly not capable.

What are the hopes you entertain of his Majesty's recovery?—If it was any common person, I should scarce doubt of his recovery; I have great hopes of his Majesty's recovery; but I am afraid it may be retarded by his recollection of his present indisposition.

Can you form any judgment or probable conjecture of the duration of his Majesty's illness?—I cannot; either judgment or conjecture.

Is his Majesty's recovery more probable or not?—A great deal more probable.

What degree of experience has Dr. Willis had himself, or does he know others to have had, in this particular species of disorder?—I have had a great deal for twenty-eight or twenty-nine years.

Have you considered this kind of disorder under which the King labours as liable to be classed under different species?—In my answer to that, I am apprehensive it would describe the sort of disorder more than your lordships would choose: his Majesty's disorder is attended with symptoms of violence and acuteness. Another species of this indisposition is attended with lowness of spirits and despair; the latter of which is the most difficult to be cured.

Whether the disorder is not of a different species when it is occasioned by external causes, or when it is not to be traced back to such causes?—We must judge of the species of a disorder by the symptoms: but when we know the cause is from a blow, from excesses of any kind, from sudden frights, from watching, from too great attention to business, or any sudden misfortune, the cure will be brought about, in all probability, by an attention to what we judge to be the cause.

Have you taken such observation of his Majesty's illness, as to trace it to any of these causes?—I have attended his Majesty so short a time, I can only form a guess, or hazard an opinion, from what I am told of his Majesty's mode of life; therefore, I would not have your lordships imagine I presume to give it as a positive opinion: but from a detail of his Majesty's mode of life for twenty-seven years, I should rather think that his Majesty's indisposition has been brought about by using very strong exercise, taking little sustenance, watching, or want of sleep, perhaps when his mind was upon the stretch with very weighty affairs; and I am the more inclined to think I may guess right, because the medicines that were to meet with such causes, which were ordered on Sunday last, have had the effect that I could wish.

Have any favourable symptoms of convalescence taken place since you attended?—His Majesty's nerves are less irritable, which must precede convalescence.

Do you regard that as a favourable symptom?—Yes.

Whether any actual cessation of the disorder has obtained since you attended the King?—His Majesty is much calmer, eats and drinks, takes medicines, and goes to bed quietly.

Do you consider that, or any other symptoms you have observed, as a cessation of his disorder?—As a partial, not a total cessation.

How long have you attended his Majesty?—From Friday morning last, at about ten or eleven o'clock.

How soon have patients under your care, affected with a similar disorder, usually recovered?—If I am called in within three months, from three months to fifteen or eighteen months: sometimes they recovered much sooner than three months, two months, six weeks, or one month: I have had some two years under my care, and recovered afterwards. I cannot presume to form any opinion as to the time.

What do you understand by recovery?—To be perfectly well and fit for business in all respects, as he was before.

Do you make any distinction betwixt

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complete and temporary recovery?—As complete a recovery as if it was from an ague, fever, or cold, with proper attention to his mode of life.

In the course of your experience, has it happened that persons recovered by you have come a second time under your care?—They have: but I do not think that they are more likely to relapse into such an indisposition, than any one is into a violent fever.

Whether, when you have sent a person out as cured, and that person returns under your care again, you consider that as a new disorder, or a relapse?—If a long time intervenes, I consider it as a new disorder.

What do you call a long time?—Three or four years.

Whether short of that, you look upon it as a relapse or a cure?—If it was within a year, I should call it a relapse.

Within what time, as near as you can recollect, the majority of patients dismissed by you as cured, whom you say have returned again under your care, have returned?—I have had them return from one to eighteen years, but cannot speak as to majorities.

Dr. *Richard Warren* called in, and examined.

You are desired to acquaint this Committee, whether the state of his Majesty's health is such as to render him incapable of coming to his Parliament, or of attending to any kind of public business?—Incapable.

What are the hopes you entertain of his Majesty's recovery?—The hopes must be determined by the probability of cure, and that can be judged of only by what has happened to others, by which I find that the majority of those who have been disordered in a manner similar to his Majesty, have recovered: but I do not mean by the word "similar," his Majesty's particular disorder, but that disorder in general.

Can you infer from thence, that it is more probable that his Majesty will or will not recover?—That it is more probable that he will recover.

Does Dr. Warren apply this to the particular case of his Majesty, or to cases in general?—To cases in general.

Can you form any judgment, or probable conjecture, of the duration of his Majesty's illness?—No.

Whether, so far as experience enables Dr. Warren to judge of his Majesty's disorder, he thinks it more probable that his Majesty will or will not recover, so as to render him capable of public business?—I have no data sufficient to ground an answer upon this question.

Whether there has been any cessation of his Majesty's disorder since you attended him?—No.

Are there any signs of a returning understanding?—No.

Since you was examined last at the privy council, have there been any more favourable symptoms of his Majesty's recovery?—There are no symptoms of this disorder, but the single one of want of understanding. The words and the actions of persons under this disorder are accidental, and depend upon the difference of the persons themselves. A man that has a variety of ideas will talk and act very differently from one who has fewer ideas, or has led a different course of life: his words and actions will be determined by the peculiarity of the man, and not by the distemper. Under this explanation the symptoms are more favourable.

Is the probability of his Majesty's recovery of his understanding varied or affected any way by the actual duration of his illness?—The probability of cure diminishes as the time of the disorder lengthens.

Has this disorder continued so long, as to enable you from thence, to pronounce upon the probability of his recovery?—No.

How long have you attended his Majesty?—I saw him first on the 7th of November.

Whether there has been any difference of opinion amongst the physicians, as to the nature of the case?—It has been the custom of his Majesty physicians, from the day that I went first to Windsor, to put down in writing a description of the state of his Majesty's health every evening, and for each of them to sign the paper; by which it will appear that there never was any difference of opinion among the physicians, with respect to the case as it is put. This was continued daily till his Majesty came to Kew.

Sir *George Baker* called in, and examined.

You are desired to acquaint this Committee, whether the state of his Majesty's health is such as to render him incapable of coming in person to his Parliament, or of attending to any kind of public business?—The state of his Majesty's health

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is such as to render him incapable of any public business.

What are the hopes you entertain of his Majesty's recovery?—The hopes I entertain of his Majesty's recovery, are founded upon an idea of its being probable. That idea of probability is suggested to me by past experience, as well original as that of other physicians, in in cases similar to that of his Majesty.

Can you form any judgment, or probable conjecture, of the duration of his Majesty's illness?—I can form no judgment, or probable conjecture, of the duration of his disorder.

Has there been any cessation of the disorder since you first attended his Majesty?—There was a cessation of the disorder since my first suspicion.

At what period did you first suspect the nature of his disorder?—In the evening of Wednesday, October the 22d last.

What length of time did that cessation continue?—I conceived the suspicion that evening; and the next morning, when I visited his Majesty very early, he appeared to me to be perfectly well. On the Monday following I saw his Majesty at Windsor, and then saw more signs of the disorder.

Has there been any cessation since Monday, October the 27th?—None.

At this period of time do you see any signs of a returning understanding?—I see none.

Did you see his Majesty between the 23d and the 27th of October?—I saw his Majesty on the 24th and 25th of October, and I saw him again on the 27th, when he had a degree of his present disorder, but in nothing like the state in which it has appeared since.

Had his Majesty been afflicted with any bodily disorder immediately preceding the 22d of October?—On the 17th of October, his Majesty was attacked by a disorder in which I had once before seen his Majesty, and to which I understand he had been very subject: that disorder I conceive to be biliary concretions in the gall duct.

How long did he continue in that illness?—It lasted the greatest part of the 17th.

Did it last any longer, or did it take a different turn?—It returned twice on Monday and Tuesday following; on Monday it was not so severe, and went off very soon; on Tuesday it was very trifling.

Is it your opinion that his Majesty's present malady has been caused by, or has any relation to, his previous disorder?—It is not my opinion that his Majesty's present malady has any relation to his previous disorder.

Had not his Majesty a rash previous to Friday the 24th of October?—On Friday, October the 17th, in the course of that day, it was mentioned to me that his Majesty had had a rash, and upon that account his skin was examined, and there did appear some marks of there having been a rash, which had spent itself.

Have not you heard that his Majesty, during the time that the rash was upon him, wet his feet, and sat in wet stockings?—I was informed, that on Thursday the 16th, his Majesty rose very early, and walked more than four hours; and afterwards went to St. James's without having changed his stockings, which were very wet.

Did not you understand the rash had been checked by his Majesty having sat in wet stockings?—It was so imagined.

By whom?—By some in the family.

Can you say, that a rash, so checked, may not have been the occasion of his Majesty's present disorder?—I can only say that it is not my opinion; for I conceive that if his Majesty's present malady is supposed to be occasioned by the checking of the rash, the effect would have followed the cause more immediately.

Whether his Majesty's legs swelled after it was imagined the rash was checked?—The 18th of October the left foot was a little inflamed, and in consequence swelled; afterwards the right foot.

Did the swelling of the legs go off upon the present disorder coming on?—It had gone off before the present disorder.

How long before?—About two days.

Were both the King's feet without swelling on the 24th?—I think he left off both his great shoes on the 23d: he was lame and in pain in the muscles of his legs with the rheumatism on the 24th.

In what degree was he disordered on the 24th?—He had had a restless night on the Thursday; and when I saw his Majesty on Friday morning, he was low-spirited, and complained much of the necessity of going to the levée. He complained all along of pains in the muscles of his thighs and legs, as he does also at present.

Have those pains in his thighs continued all along?—From the beginning.

Have those pains any relation to his

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Majesty's present illness?—I think not.

Was it your opinion that the rash was struck in?—It is not my opinion.

Sir *Lucas Pepys* called in, and examined.

You are desired to acquaint this Committee, whether the state of his Majesty's health is such as to render him incapable of coming in person to his Parliament, or of attending any kind of public business?—He certainly is incapable.

What are the hopes you entertain of his Majesty's recovery?—The hopes of his Majesty's recovery arise from the general consideration, that the majority of those afflicted with the same or similar disorder under which his Majesty now labours, do recover.

Can you form any judgment or probable conjecture of the duration of his Majesty's illness?—I can form no such conjecture.

Is his Majesty at times composed and quiet?—Frequently is.

Does his disorder abate during those periods?—Not in the least.

Dr. *Henry Revell Reynolds* called in, and examined.

You are desired to acquaint this Committee, whether the state of his Majesty's health is such as to render him incapable of coming in person to his parliament, or of attending to any kind of public business?—His Majesty is incapable of attending to any public business.

What are the hopes you entertain of his Majesty's recovery?—I think there are well-founded hopes of his Majesty's recovery.

Can you form any judgment or probable conjecture of the duration of his Majesty's illness?—No, I cannot.

Upon what do you found your hopes of his Majesty's recovery?—Upon general experience; as the greater number of those afflicted with the same malady with his Majesty generally recover.

Dr. *Anthony Addington* called in, and examined.

You are desired to acquaint this Committee, whether the state of his Majesty's health is such as to render him incapable of coming in person to his Parliament, or of attending to any kind of public business?—I have not seen his Majesty this week past; but at that time he was certainly incapable of attending Parliament, or doing any public business.

What are the hopes you entertain of his Majesty's recovery?—I have very great hopes of his Majesty's recovery.

Upon what foundation do you build those hopes?—I never yet have heard that his Majesty has had any disorder whatever, from which I could infer that he could not recover; and by recovery, I mean so as to be able to attend his Parliament, and attend any other business as well as ever he did; but I think there are hopes in my mind, from some circumstances that I had not taken notice of before. I never heard that his Majesty was melancholy previous to his present indisposition; and I do not recollect an instance of any patient who required a longer time to be perfectly cured than one year, who had not laboured under a pretty long and very considerable melancholy previous to his confinement.

Can you form any probable judgment of the duration of his Majesty's disorder?—I cannot.

In what time have these disorders generally been cured?—It has been my good fortune to see none who have not been cured within a year; sometimes in four months from the time they came under my care, unless they were deemed incurable by the best judges before they were sent to my house.

Is it your opinion, that all disorders of the mind, not preceded by melancholy, have been cured within the year?—All the disorders within my practice, except as before, have been cured within the year; and I should think that such disorders would be curable within the year, unless they proceeded from some immoveable cause, such as the enlargement of the bone pressing upon the sensorium, or other similar causes.

Dr. *Thomas Gisburne* called in, and examined.

You are desired to acquaint this Committee, whether the state of his Majesty's health is such as to render him incapable of coming in person to his parliament, or of attending to any kind of public business?—I think him absolutely incapable.

What are the hopes you entertain of his Majesty's recovery?—As those in similar circumstances have often recovered, I hope his Majesty will.

Has a majority of them recovered?—They have.

Can you form any probable conjecture of the duration of his Majesty's illness?—I think that cannot be ascertained.

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This Report was ordered to be printed for the use of their lordships.

The *Lord President* (Earl Camden) observed, that the examinations just read sufficiently evinced the melancholy situation of his Majesty's health; and as his Majesty's physicians could not give their lordships any satisfaction as to the time when he would recover, it was incumbent on the two Houses of parliament, in the present maimed, impotent, and defective condition of the legislature, to proceed to make some provision for the purpose of supplying the deficiency, and restoring energy and exertion to the executive government of the country; yet, previously to such a necessary and important step, he should take the liberty of moving for a committee to search for precedents of the proceedings in similar cases, in order that having fully before them what the wisdom of their ancestors deemed necessary modes of proceeding in cases of difficulty and danger, they might meet the necessity of the moment under circumstances of the greater safety. The propriety of the motion being so obvious, he should have conceived that no possible objection could have been offered to it; he had however heard of an idea which had been started in another place, where it was declared to have been founded in common law, and in the spirit of the constitution. If such was the common law, and such the spirit of the constitution, it was wholly unnecessary for the House to give themselves the trouble of searching for precedents, because the idea to which he alluded, put an end at once to their power of deliberation on the subject. The idea was, that the heir apparent being of age, had a claim to assume the regal authority, and take upon himself the administration of the government, as a matter of right, during the period when his Majesty laboured under the disorder which rendered him unable to discharge the regal functions. If this was the common law, it was a secret to him: he never had entertained any such notion, nor had he before the present occasion, either met with it in any writer, or heard it laid down by any lawyer whatever. Those who broached such a notion would have done well to have been sure that they were right, before they hazarded so new and so extraordinary a doctrine: because opinions of that tendency were much sooner raised, than laid, and might involve the country in infinite confusion. The assertion of such a doctrine, however, was as strong an argument in proof of the expediency of the motion which he meant to offer, as could possibly be urged, because their lordships, he was sure, had too much regard to their own dignity to admit themselves to be usurpers of the rights of another, without first searching and examining precedents which would convince them whether they were usurpers or not. The noble earl then moved, "That a committee be appointed to examine and report precedents of such proceedings as may have been had, in case of the personal exercise of the royal authority being prevented or interrupted, by infancy, sickness, infirmity, or otherwise, with a view to provide for the same."

Lord *Loughborough* said, he was aware that it was unusual for any noble lord to speak before a motion had been read from the woolsack, but on the present occasion he must claim the indulgence of their lordships for a few moments, as he wished to declare that he had not upon his coming down to the House expected that any thing could arise to make it necessary for him to trouble the House that day. His being present was purely accidental. When he left the committee room the preceding day, he had understood that there would be nothing done farther than a motion of course, and the unusually thin attendance which there had been early in the day, and the manner in which noble lords had come into the House, so contrary to the manner in which they had attended ever since the melancholy occasion of their meeting had occurred, all led him to imagine that there would be no discussion of any kind. In fact, so convinced had he been, that no debate would arise, that he had himself been the innocent cause of keeping other lords from coming down, who would have made a point of being present, had they foreseen that any such subject as that mentioned by the noble earl, would have been introduced. When he looked round the House, he regretted exceedingly the absence of several noble lords, and particularly of one noble and illustrious person who was most peculiarly interested in the discussion which must necessarily take place. The topic however, having been introduced, though irregularly, he should be under the necessity of following the noble lord's example, and delivering such of his sentiments upon it, as presented themselves to his mind at the moment, but as he was taken unawares, and must necessa-

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rily speak unprepared, he trusted to their lordships candour and indulgence to excuse the loose manner in which he might deliver himself. As soon, therefore, as the motion was read he would trouble their lordships again. The Lord Chancellor having read the motion. Lord Loughborough proceeded. He complained of the wording of the motion as vague and indefinite. It did not confine the Committee to search for any distinct, precise line of precedents, but left them at large to examine general history and report just as much, or as little as they thought proper. The expression "or otherwise" was so indefinite, that no clear idea could be annexed to it; in his opinion, therefore, the motion should have been differently worded, if the House expected to derive any useful information from the institution of the Committee. With regard to the idea which the learned earl had mentioned as having been stated in another place; he knew not whether the learned earl's information had proved accurate, but he had heard of another assertion, a most extraordinary one indeed, that had been boldly, arrogantly, and presumptuously made elsewhere. As he found the same assertion in a miserable political pamphlet, the produce of a venal pen, he was induced to imagine that it was true that such an assertion had been made by the person and in the place where he had been informed that it was made. The assertion was, "that the Prince of Wales, the heir apparent to the Throne, had no more right to take upon himself the government during the continuance of the unhappy malady which incapacitated his Majesty, than any other individual subject." This assertion was founded in the idea that the Regency was elective, which he maintained could not be the case. By the settlement of the constitution, and by various statutes, the Crown of these kingdoms was hereditary, and by the 25th Edw. 3, any person who should, by ill-advised speaking or writing, assert the contrary, was liable to be prosecuted, and to incur the pains and penalties of a premunire. There were, he declared, but two possible cases in which the throne could become vacant, so as to make it the duty of the two Houses of Parliament to provide for the exercise of the regal authority; the one a total subversion of the government by a breach of the original compact, as in the case of an abdication of the throne; the other, when the royal line becomes extinct, and the king upon his demise leaves no heir. The case at present was widely different. The assertion, that the heir apparent had the right to take upon himself the exercise of the royal authority, in case of the personal incapacity of his Majesty, was a doctrine undeniably founded in law. Great and alarming would be the dangers of considering the Regency as elective. Were this case so, the two Houses might set up a pageant of a regent, and, in fact, assume the government themselves, because a regent so elected, must necessarily be the slave of his electors. The single precedent of a regent having been appointed by a House of Parliament to be found in our history was, the horrible precedent in the reign of Henry 6—a precedent that led to the desolation and distraction of the country, and all the wars between the houses of York and Lancaster. In that case the House of Lords singly named the duke of York protector, who was, of all others, the most unfit person to be invested with that power, but who had so many relations and adherents in that House, that he procured himself to be appointed protector. From that miserable instance their lordships would see, that the only branch of the legislature, which had ever assumed the power of electing a regent, was their own House. Were their lordships prepared to follow the example, and would the other House consent that they should arrogate to themselves that power? The noble and learned earl had declared, that the legislature was, at present, maimed, impotent, and defective; it certainly was so, wanting its invigorating head and spring. That was another reason, which proved that the two Houses could not elect, nominate, or appoint a regent. By the Act which provides for securing the Crown in the protestant succession; and by the 13th Charles 2, the two Houses are prevented from making law of themselves, or doing any one legislative act without the consent of the king. They could not make a turnpike act, and yet, would it be seriously argued that they could elect a regent. If they could do the one, they might surely do the other. If they could change the government, or change the succession, they might give it any form they chose, appoint a regent, nay, even appoint more regents than one, or give it the form of a Mahratta government. There was no saying to what an extent of infringement

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of the constitution the two Houses might not proceed, if they once broke through the barriers which the law and the constitution had prescribed. Besides, was it remembered, that a neighbouring kingdom stood connected with us, and acknowledged allegiance to the British Crown? If once the rule of regular succession was departed from by the two Houses, how were they sure that the neighbouring kingdom would acknowledge the regent whom the two Houses might take upon themselves to elect? The probability was, that the neighbouring kingdom would depart, in consequence of our departure, from the rule of hereditary succession, and choose a regent of their own, which must lead to endless confusion and embarrassment. But, it had been declared, that the Prince of Wales had no more right than any other individual subject. No more right! Was the Prince of Wales a common subject? Did not the law describe him to be one and the same with the king! Lord Coke expressly stated it so. Was it not as much high treason to compass or imagine the death of the Prince of Wales as the death of the king? Was it high treason to compass or imagine the death of any other individual subject? In fact there was no comparison between the rights of the Prince of Wales, and the rights of any other individual subject. It so happened, that the two Houses were, at that time, Houses of a legal Parliament legally summoned by the king's writs, and in consequence legally assembled; but, if the case had occurred in the intermission of parliament, would any man say that it would not have been warrantable for the Prince of Wales, as heir apparent, to have issued writs and called the parliament together? The regency, he maintained, was hereditary, and not elective; and the heir apparent had a right, during the interruption of the personal exercise of the royal authority, by his Majesty's illness, to assume the reigns of government. When he made this observation, he was very far from meaning to intimate, that the Prince of Wales could violently rush into the government, but that upon the authentic notification of the king's unfortunate incapacity to the two Houses, the Prince ought, of right, to be invested with the exercise of the royal authority. Upon this occasion, he should beg leave to refer the House to Mr. Justice Foster's Treatise on the Principles of the Revolution, Mr. Justice Blackstone's chapter of his commentaries which treated of regal power, and to the productions of other constitutional writers, as well as to the speeches of lord Somers and others, who conducted the revolution, as the authorities by which his arguments would be found to be supported. He repeated his apology for the loose form in which he had expressed his sentiments declaring, that they were opinions, nevertheless, not lightly nor hastily adopted, but confirmed and established in his mind, after much mature and serious deliberation on the subject. Should an opportunity offer for his discussing the subject with better preparation, he would undertake as a lawyer, by a series of inferences from common law, from the spirit of the constitution, and from analogy, to the conviction of every man of common sense, the truth of the doctrine upon which he had now raised his arguments.

The *Lord Chancellor* said, that it was impossible for him to perceive, without extreme concern, that in the progress of a business peculiarly grave and important in its nature, even the slightest appearance of a difference of opinion, or unpleasant altercation should have arisen. Had their lordships waited till the ultimate question came under discussion, in all probability there would not have been found much disagreement on any side, and consequently, much of what had been said that day might have been spared. For his own part, he could not avoid declaring, that all which he had that day heard did not satisfy his mind. He wished, therefore, previously to the declaration of his opinion upon so delicate a subject, to have the full advantage of every information and every precedent that could be found, that bore any sort of analogy to the present calamitous situation of the country. With regard to the doctrine which had been maintained by the learned lord who spoke last, though every point that came from a magistrate of his distinguished situation, came with great force and authority, he could only say, that it was perfectly new to him, and that he had not heard it before. The learned lord had remarked, that in the eye of the law, the Prince of Wales and the King were one and the same. Would their lordships take a metaphorical expression, and force a literal meaning upon it? His Royal Highness the Prince of Wales, most certainly was peculiarly distinguished by his rank, birth, and dignities. It ought however to be

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recollected, that he was, nevertheless, a subject. The learned lord had, in the course of his argument, put the case in two different points of view; he had suggested, that his Majesty's unfortunate illness might have happened in the intermission of parliament, as well as having happened as it had done, while the two Houses met in the usual and regular way; and the learned lord had said, in the case of an intermission of parliament, would not the Heir Apparent have been warranted in taking upon himself to issue writs and call the two Houses together? The fact had actually happened in the reign of Henry the 6th when the heir apparent did issue writs and call the Parliament together: but, what was the first proceeding of that Parliament? They passed an act of indemnity for those who advised the measure of putting the Great Seal into the hands of an infant only nine months old. He sincerely lamented that any remarks should have fallen from the learned lord respecting Ireland, because he considered them as not unlikely, "spargere voces in vulgum ambiguas." Such vague and loose suggestions could answer no useful purpose, but might produce very mischievous consequences. He declared he had every reliance on the known loyalty, good sense, and affection of that country, and felt no anxiety least Ireland should act improperly. He should purposely avoid entering at all into the discussion of the important topics which had that day engaged so much of their lordships' attention, because he considered such a discussion as premature, and did not think the question ought to be in any degree pre-occupied. Indeed, he saw no other end that could arise from it, but affording a subject for a frivolous paragraph in a newspaper, to set idle people talking upon which side of the argument this or that noble lord spoke, while the sensible by-stander would observe, that their lordships had begun at the wrong end, and were discussing the conclusion before they had settled the premises. It was unnecessary for him to use any argument in justification of the motion, as no objection had been made against it. The learned lord had certainly, in a most judicious and becoming manner, spoken of a Prince of Wales in the abstract, without affecting in the treatment of such a delicate subject, to rest any part of his argument on the personal virtues of the present heir apparent, who should always have his applause, when the expression of it would not be an act of impertinence. It was impossible to separate the natural and political character and capacity of the King, and while the Crown remained firmly fixed on his Majesty's head, the appointment of a proper Regent must prove a consummation beyond expression difficult.

Earl *Stanhope* said he was absent from London when the news reached him of his Majesty's unfortunate illness, and he returned to it with no other sentiment than a determination to oppose the proposition of saddling the Regent with a permanent council, if any such proposition should have been made. But he could not sit silent and hear it denied to the two Houses of Parliament, that they had the power, in case of a vacancy of the throne, or the interruption of the personal exercise of the royal authority, to make provision to supply the deficiency. He read an extract from the Bill of Rights, touching the conditions on which the Prince of Orange and the Princess Mary were offered and accepted the crown. That declaration, he observed, was the act of the two Houses. He next asked how the Hanover family came to the throne? and stated different instances of the two Houses interfering with regard to the succession to the crown, to prove that their interference was constitutional.

The Duke of *Norfolk* argued against the introduction of the words "infancy," and "or otherwise," and wished it had been limited to sickness only, because he was sure then, that no precedent whatever could have been produced, and that such must have been the report from the Committee.

The *Lord President* justified the wording of the motion, and declared that his head must be strangely illogical, if the term infancy was not peculiarly in point to the present occasion.

Viscount *Stormont* said, that by the approbation which had been signified when the declaration that the Prince of Wales had no more right to exercise the royal authority during his Majesty's unfortunate illness, than any other individual subject, was alluded to, he was persuaded that it was a favourite doctrine with noble lords of a certain description, and that it was thrown out with a view to feel the pulse of the nation. He contended against the idea of the Regency being elective, and argued, that if that doctrine were admitted, it must lead to a republic. He reminded earl Stanhope, that his arguments

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on the Bill of Rights and the revolution were irrelevant, if meant to confute what had been said by lord Loughborough, that learned lord having expressly mentioned, that the two Houses could legally provide a successor to the throne, only in two instances; one of which was, when a subversion of the government took place by a breach of the original compact between a sovereign and his subjects, which was precisely the case at the revolution. He complimented the noble earl, however, on his objection to saddling the Regent with a permanent council, and instanced the case of Poland, to prove that the most distinguished abilities in an elective monarch could not prove advantageous to his people or render his government either beneficial or glorious, whilst he was fettered with a permanent council. Lord Stormont declared, in the name of the peers of Scotland, that if the two Houses took upon themselves to depart from the rule of succession, and elect a Regent, the nobles of his part of the realm would consider the Act of Union as suspended. After ridiculing the idea of setting up a competitor with the Prince of Wales, mentioning the case of the duke de Guines, who boldly usurped the Regency of France, and speaking in terms of affectionate sorrow for his Majesty's illness, he concluded with earnestly recommending, that an address of the two Houses, intreating the Prince of Wales to assume the exercise of the royal authority, and hold it during his Majesty's incapacity, should be voted and presented to his Royal Highness.

Lord *Sydney* maintained, that during the interruption of the personal exercise of the royal authority, occasioned by his Majesty's illness, no person, however high his rank, however distinguished his birth, had a legal claim to assume it as a matter of right. He remonstrated against the unfairness of arguing that a particular declaration must have been the declaration of a right hon. friend of his in another place, because a learned lord had met with it in what he called a miserable pamphlet, the production of a venal pen.

Lord *Porchester* said, it was extremely natural that the secrecy with which every step in relation to his Majesty's illness had been taken, the confining the examination of the physicians to a committee of 21, and, although five days were allowed after the laying the minute of the Privy Council on the table, the calling upon him and other lords, in five minutes after the examination of the physicians before the Committee of 21 had been read, to vote for a Committee to search for precedents, should force him to regard the proceedings of ministers on the subject with an exceedingly jealous eye. He referred to the reign of Edward 3, when that king's son, a minor, afterwards called the Black Prince, was declared regent by his father, during his absence, and reasoned upon that and other precedents. After reprobating the motion, on account of the indefinite terms in which it was expressed, he asked, whether it included precedents of what had been done in cases of the absence of the sovereign?

The question was put and carried; and on the next day the following Committee was balloted for; viz. The Archbishop of Canterbury, the Lord Chancellor, Lord President, Lord Privy Seal, dukes of Richmond and Portland; earls of Derby, Coventry, Dartmouth, Radnor, Chatham, and Bathurst; viscount Stormont, Bishop of London; lords Osborne, Sydney, Loughborough, Walsingham, Grantley, Hawkesbury, and Kenyon.

Dec. 15. Earl *Fitzwilliam* opened the debate by entreating the indulgence of the House, should he proceed to the irregularity of bringing on a conversation, without intending to make a motion, or to state any question which would render such a conversation agreeable to form and order; but, irregular as he confessed it was, he trusted their lordships would overlook it, on account of the momentous subject to which it referred, and the great delicacy which ought to accompany all their proceedings upon the present calamitous situation of affairs. In consequence of discussions in another place, a question upon the rights of a most exalted personage was about to be agitated; a question which, he was thoroughly persuaded, could not be brought under discussion, without producing effects which every well-meaning and considerate individual must wish to avoid. The public already had, in some measure, caught the alarm, and much uneasiness had been manifested upon the subject; he rose, therefore, to deprecate the discussion of any such question in that House, since he was persuaded that it would be infinitely more satisfactory to most of their lordships, that the question should not be agitated, and he the rather deprecated the discussion, as it could not be in the smallest degree

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necessary that it should take place. It would prove a great satisfaction to his mind, and to the minds of many who heard him, if any one of his Majesty's ministers would rise, and assure the House that it was not their intention to agitate any such question as that to which he had alluded.

The *Lord President* said, that the moment in which he was speaking, and indeed every moment at present, was a moment of great delicacy, difficulty, and embarrassment, and that therefore it behoved his Majesty's ministers to conduct themselves with the most guarded caution, and to take care that, by any premature disclosure of what steps they meant to pursue, they did not commit themselves imprudently; but, the candid manner in which the noble earl had explained what he stated, demanded every polite and civil return in his power to make. At present, as the House well knew, a committee of their own had been employed in searching for all the precedents which their records would afford, to guide their lordships in such proceedings as they should think it became them to take, upon the important subject which had engrossed their attention. That committee had not yet been able to make their report; previous to the receipt of which, it was utterly impossible to advance a single step. When the report should come, it would be necessary to move to have it printed for the use of their lordships, and then time must be allowed for their lordships to make themselves masters of the various precedents which it contained, previous to their grounding any proceeding upon it. He could say, that it was not the wish of ministers to agitate more questions than were absolutely necessary. The rights of the two Houses of Parliament had been questioned, and two noble lords had argued against the existence of those rights. It became, therefore, absolutely necessary, that rights so essential and important should not be left unsettled and undecided, before they proceeded to the other necessary measures in the providing a regency. But, would the noble earl, and the other noble lords who acted in concert with him, declare, that all question of the rights of parliament was abandoned by them, and that these rights were admitted to exist in full force?

The Earl of *Carlisle* did not conceive that either of the two noble lords alluded to had questioned the rights of parliament; because, if their arguments had borne that tendency, he should have imagined that they would have objected to the appointment of a committee to search for precedents, as being altogether unnecessary, and that the House would have found itself in a very different stage of the business from that in which it stood at present.

Earl *Fitzwilliam* said, that after having risen to deprecate the discussion of a question respecting the rights of another person, it could not be expected that he should turn short round and admit the rights of others in opposition to those rights.

The Duke of *York* next rose. He began by declaring, that perfectly unused as he was to speak in a public assembly, he could not refrain from offering his sentiments to their lordships on a subject in which the dearest interests of the country were involved. He entirely agreed with the noble earl and other lords, who had expressed their wishes to avoid any question which tended to induce a discussion on the rights of the prince. The fact was plain, that no such claim of right had been made on the part of the Prince; and he was confident, that his Royal Highness understood too well the sacred principles which seated the house of Brunswick on the throne of Great Britain, ever to assume or exercise any power, be his claim what it might, not derived from the will of the people, expressed by their representatives, and their lordships in parliament assembled. It was upon this ground that he must be permitted to hope that the wisdom and moderation of all considerate men, at a moment when temper and unanimity were so peculiarly necessary, on account of the dreadful calamity which every description of persons must, in common, lament, but which he more particularly felt, would make them wish to avoid pressing a decision, which certainly was not necessary to the great object expected from parliament, and which must be most painful in the discussion to a family already sufficiently agitated and afflicted. Such, his Royal Highness observed, in conclusion, were the sentiments of an honest heart, equally influenced by duty and affection to his royal father, and by attachment to the constitutional rights of his subjects; and he was confident, that if his royal brother were to address them, in his place, as a peer of the realm, these were the sentiments which he would distinctly avow.

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The *Lord Chancellor* said, he was perfectly convinced that the words to which their lordships had just been ear witnesses, must have made the deepest impression upon their minds; and it could not but prove extremely gratifying for them to know, that the mode they should adopt upon the present melancholy occasion, would give the utmost satisfaction to the exalted personage, who must necessarily feel the greatest interest in their deliberations and decisions. For his own part, he should confidently declare, that no man could be more determined than he was to avoid having any questions brought forward that were unnecessary, and that he was ready to bind himself by any words, or phrases, however strong, not to vote for any question that took any other direction than the straight path of the public good. Questions of right were generally invidious, and often unnecessary: and, on the present critical occasion, no question ought to be brought into agitation, which the nature of the subject did not absolutely demand to be discussed. He reminded their lordships of the steps they had hitherto taken in the important business before them, and of the stage at which they had arrived, observing, that they had followed the same line with the House of commons; but it had so happened, that the House of commons were in a more advanced stage of the business. At present their lordships' committee were employed in searching for precedents, and had not yet been able to make their report. When that report should come before them, they would see what step ought farther to be taken, with a view to do that which they must all wish to see done—to restore vigour and efficacy to the executive government of the country, and above all things, to take care faithfully to discharge the duty of subjects, and preserve the rights of the King entire, so that when God should permit his Majesty to recover from his present melancholy malady, he might not find himself in a worse situation than he was in before his infirmity, or disabled from the full exercise of all his rightful prerogatives. He could not avoid taking notice of the eloquent and energetic manner in which a noble viscount had, in their last debate, expressed his feelings on the present melancholy situation of his Majesty; feelings rendered more poignant from the noble viscount's having been in habits of personally receiving various marks of indulgence and kindness from the suffering Sovereign. His own sorrow, he declared, was aggravated from the same circumstance: his debt of gratitude also to his Majesty was ample for the many favours which he had graciously conferred on him; and which, when he forgot, might God forget him! In the last conversation that had taken place in that House upon the subject, two opinions different from each other had been propounded. As these opinions ran in opposite lines, and could not be brought to one and the same point, some path between the two, he conceived, must be chalked out. What that path was, remained for their lordships to find, and, possibly, they would be assisted by some communication from the other House. It was, nevertheless, his opinion, that no question that was not absolutely necessary ought to be agitated; and that, if it could be done, the proceeding with perfect unanimity was most desirable.

Earl *Fitzwilliam* remonstrated against the idea of having it stated that private affection ought to govern their lordships in an important proceeding, on which the public welfare so essentially depended. He was persuaded that the Brunswick family would consider it as an ill compliment to them, to ground a proceeding of that magnitude on the basis of private and personal affection to the King.

The *Lord Chancellor* assured the noble earl that he misconceived him if he imagined that he barely rested what they ought to do in the present emergency on their private affection for the person of the Sovereign; they had heard him expressly declare it to be their duty as subjects to preserve the rights of the King entire. Not that he would have any noble Lord, or any man living, imagine that there was a shade of difference between the public allegiance and loyalty due to the Prince and the private affection and love which his subjects bore him. His Majesty, through a reign of twenty-seven years, had proved his sacred regard to the principles which seated his ancestors on the British throne, and his anxious desire, on every occasion, to maintain and uphold, in all its purity, that constitution which had made its subjects a free and a happy people.

Viscount *Stormont* said, that his sentiments were, in many particulars, congenial with those of the learned lord on the woolsack. He would, therefore, only detain their lordships with stating in what

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he differed from that learned lord. The learned lord had stated, that two opinions had been propounded in the last debate which ran in parallel lines, and could not be reconciled and brought to one and the same point. So far from this being the state of the case, he thought that nothing could be more easy than to reconcile the one to the other. He should beg leave to remind the House, of what he had in his speech on Thursday last repeatedly mentioned, that the agitating the subject that day discussed, and which gave occasion for the two opposite opinions to be stated and insisted upon, was not imputable to him or to any one noble lord who had spoken on his side of the question. Their lordships must all remember, that the subject had been introduced by the Lord President in a most extraordinary, and he would say, disorderly and unparliamentary manner.—[Lord Stormont was called to order, and the House was for some seconds thrown into confusion, by different lords rising at the same time to speak.]

The Duke of *Richmond* said, that as no question was before the House, he would move "That the House do adjourn."

Viscount *Stormont* observed, that lord Sydney had called him to order; and the earl of Derby, and several lords near him having repeated the words "Lord Sydney to order,"

Lord *Sydney* rose with some warmth, and said, he was commanded by five or six lords on the opposite bench, to speak. He lamented that the House had already betrayed a temper which, in his mind, ill became the solemnity of the subject they were discussing. Such behaviour was not decent in such an assembly, and at such an awful moment. He knew not what offence he had given, that he should receive a reprimand; but if any noble lords had taken offence at him, he would have them learn, that there were other ways of settling differences between one gentleman and another. He thanked Heaven, warm as he was by nature, that his warmth seldom lasted long. After this indication of his return to coolness, lord Sydney stated why he thought lord Stormont had transgressed order; he had grounded this idea, he observed, upon the allusion of the noble viscount to matter which had passed in a former debate.

Lord *Rawdon* complained of the introduction of any discussion that was likely rather to excite disagreement and difference of opinion, than produce unanimity and cordiality. He complimented the Lord Chancellor on having so expressly declared his coincidence in that sentiment, and mentioned the bills that were pasted up in the streets, with a view to call the multitude to take a part in the discussions of parliament, and to mislead and inflame their minds by inferences grossly false and violent. He joined in deprecating the discussion of the question of rights, and said, if he stood singly on the subject, he would divide the House against its being agitated.

The *Lord President* said, he could not sit silent, and hear himself charged with having been guilty either of a crime, or at best a very censurable act of indiscretion. A noble viscount had said, that he, in a manner equally extraordinary, disorderly, and unparliamentary, had introduced the topic concerning which they had discoursed last Thursday. He was ready to confess, that he did take notice of what had passed in another place, in the course of his opening speech; but he denied that, from the general words which he had used, any noble lord was warranted to fix on him a charge of having spoken im a disorderly or an unparliamentary manner. Not that he meant to deny that, by "the other place," he did mean the House of Commons. He certainly did, and if the question were put to him, whether any allusion in that House to what had passed in the other was disorderly and irregular, he should admit that it was; but such allusions they all knew, though in strictness irregular, were made every day and overlooked, or if noticed, done so by stating that they were disorderly, in so good-humoured a tone, that no party felt uneasy. The noble viscount had, that day, used the word "unparliamentary," with so angry and vehement a tone, that it seemed as if they were determined to proceed with a degree of passion and animosity, exceedingly to be lamented. He must, however, in justice to himself, deny that he was that wicked and bad man who had broached the doctrine of the rights of the Prince, in contradistinction to the rights of the two Houses of Parliament. He did not first broach the doctrine; and, therefore, he did not hold himself answerable for the consequences. Having been broached, it must be noticed, because they were engaged in a proceeding which would materially affect the liberties of posterity, and therefore nothing dark or doubtful

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ought to be suffered to remain untouched and undecided in the adjustment of so momentous a concern.

Viscount *Stormont* proceeded to state why he thought the two opinions that had been propounded in the last debate might be reconciled. As it was then publicly known what was the intention of government with regard to the regency, which he reminded their lordships was a circumstance not known to the House when they had last discussed the subject, his opinion was, that they should forthwith proceed to declare the Prince of Wales sole Regent. At present, with a dismembered legislature, the country stood in a situation in which it ought to be suffered to remain as short a time as possible. As it was necessary, according to all their opinions, to proceed to practical measures, it ill became them to waste the time in agitating theoretical speculations. Of that nature was the question of right, which, in his mind, it was equally idle and fruitless to discuss. He remonstrated against delay, and asked the House, if they wished to follow the example of that whimsical set of philosophers who, when Mahomet the second scaled the walls of Constantinople, and took the city by storm, were actually made prisoners in the act of sitting in debate upon fruitless metaphysical speculations and frivolous inquiries. He thought it behoved them to proceed to declare the Prince sole regent, and, as all the royal prerogatives were allowed to the sovereign, not for his pleasure or satisfaction, but with a view to the good of the subject, to vest the Prince with them entirely. He put the case of an affectionate father, who would wish his son's government to be prosperous; to be prosperous it must be strong, and without every power which government ought to possess, it could not prove either prosperous or strong. Great must be the danger of continuing without a vigorous executive government. With regard to the safety of the state from foreign enemies, he looked to the vigilance of ministers, the force of the country, and the friendly dispositions of the neighbouring powers. A variety of reasons might be stated to prove the pressure of the moment, and the urgency of the case. He particularly pointed out the anxious and unpleasant situation of lord Carmarthen, as secretary of state for foreign affairs, who, for several weeks past, had not been able to forward a single instruction to any of our ministers abroad, since it was well known all such instructions were sent in the name and by the command of the King.

Earl *Stanhope* expressed his anxious wish, that what the House had that day heard from the Duke of York could have been given in writing, so as to have been made, in some way or other, matter of record. It was too important a communication to be suffered to remain in fleeting words, which could not be handed down to posterity for them to quote as a proof of the existence of an essential part of the constitution.

The Duke of *Gloucester* rose, and after stating the peculiar unpleasantness of his own situation, and declaring that it was only four hours since he had heard that any thing was to be agitated upon the subject that day, deprecated the discussion of a question, which could only tend to produce the most mischievous consequences. He declared himself a mere individual, not influenced by party, but actuated by a sincere love of his country, and a strong sense of what he knew would be his Majesty's feelings, were he happily to recover from his present lamented indisposition. His royal highness trusted, that the good sense and loyalty of a majority in each House, would yet prevent the threatened decision on this point. Perseverance in it was mischievous to the last degree, and could not be meant for the public good. For his part, he felt so strongly on the subject, that if the attempt was persisted in, and the question brought before that House, he could only say, that he believed he should not dare to trust himself to come forward and speak his sentiments on the extraordinary conduct of those, who were unnecessarily inclined to compel a decision on so delicate a question.

Lord *Cathcart* said, that the papers pasted against the walls of the public streets, which had been alluded to by a noble lord, were not the only attempts to inflame the minds of the multitude. Other papers, replete with violence and falsehoods, and calculated to misrepresent the conduct of ministers, and make it appear that one of them brought himself forward as a competitor with the Prince of Wales, had been first pasted up, and distributed through the cities of London and Westminster. He concluded with moving an adjournment; which was agreed to.

Dec. 17. The Lord President of the Council brought up the Report from the

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Committee who had been appointed "to examine and report precedents of such proceedings as may have been had, in case of the personal exercise of the Royal Authority being prevented, or interrupted by infancy, sickness, infirmity, or otherwise, with a view to provide for the same." The Report was read by the clerk, and ordered to lie on the table, and be printed.

Proceedings in the House of Commons on the King's Illness.] Nov. 20. The House met, and as soon as Mr. Chancellor Pitt had taken his seat the Speaker rose at the table, and observed, that, as he believed no new commission had been issued for the farther prorogation of parliament, he wished to know whether it was the pleasure of the House that he should take the chair? A general call of Chair! chair! immediately prevailed; in consequence of which, the Speaker went to his seat, from whence he stated to the House what writs had been issued by him during the recess. The new members then took the oaths; and when they had all been severally sworn,

Mr. *Pitt* rose and said, that consistently with his duty, he must beg leave to inform the House, that the cause of their being thus assembled, without the usual summons and notice that they were to meet for the dispatch of business, upon the commission for the last prorogation of parliament expiring, was owing to the contingency of the unfortunate illness with which his Majesty had been severely afflicted, and which had prevented his servants from receiving his commands. He added, that the few authorities which existed, and which were at all similar in their application to the present singular situation of affairs, had been consulted; but, as they did not point out the possibility of issuing a new commission for the farther prorogation of parliament, nor enable them to open the session in the usual form, nor indeed in any way at all regular, he trusted that every gentleman would agree with him, that, under the present circumstances, it would be highly improper for the House to proceed to the discussion of any public business whatever, and that it was absolutely necessary for them to adjourn. He meant, therefore, before he sat down, to submit to their consideration a motion for the adjournment of the House, at its rising, to that day fortnight. One more point, and one more point only, he should take the liberty of submitting to them before he offered the motion of adjournment, which was, that if his Majesty's illness should unhappily continue, contrary to the wishes and prayers of his people, longer than the proposed period of a fortnight's adjournment, as it would be indispensably necessary for the House to take into their immediate consideration what measures were proper to be adopted, in order, as far as they were competent, to endeavour to guard against the dangers which might arise from the not being able to open the session in the usual form, so it would be equally incumbent on them to ensure as full an attendance as he then saw, in order to give the proceeding, whatever it might be, all the weight and solemnity in their power, to contribute towards supplying the deficiency of the royal proclamation. He, therefore, submitted to the consideration of the House the propriety of a motion, which, with their consent, he should offer for a call of the House on that day fortnight; and that the call might be rendered as effectual as possible, he should accompany it with another motion, directing the Speaker to write circular letters, requiring the attendance of every member on that day fortnight. He would now move, "1. That the House, at its rising, adjourn to that day fortnight. 2. That the House be called over on the 4th of December. 3. That the Speaker be directed to send circular letters, requiring the attendance of every member on that day." The House agreed to these motions *nem. con.*, and, upon the question put, adjourned to that day fortnight.

Dec. 4. The House being met, pursuant to adjournment and the Speaker having taken the chair, Mr. Pitt presented a report of the examination of the King's physicians, taken the preceding day upon oath, by the privy council, relative to the state of his Majesty's health. This report was read at the table by the clerk, and was in substance as follows: Dr. Warren's opinion, as deduced from the questions put to him by the privy council was, that his Majesty was at present incapable of attending to public business; that there was great probability that his Majesty would, in time be able to resume his share in the government of the country; but that he could not say when such an event was to be expected. His opinion was founded on personal experience, and consultation with other physicians. Sir George Baker, sir

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Lucas Pepys, and Dr. Reynolds were severally of the same opinion. Dr. Addington was still more sanguine in his hopes of his Majesty's recovery, as he had seldom or ever known cases attended by such symptoms as he had discovered in his Majesty, fail of a happy termination.

Mr. *Pitt* then moved, "That the said report be taken into consideration on Monday next." At the same time, he gave notice, that on that day he would move that a committee should be appointed to search for precedents in any degree applicable to the present melancholy state of public affairs, and report them to the House. The awful magnitude of the present crisis, called for the most serious deliberation; and the House could not, in his opinion, proceed with too much solemnity, or be too cautious in its determinations, in a business of such moment as was that which must shortly be brought before them.

Mr. *Vyner* sincerely lamented the melancholy occasion which rendered such a motion necessary, and believed every man in the country was truly concerned at so dreadful a circumstance. A report taken by the privy council was undoubtedly entitled to great weight, but he questioned whether it suited the dignity of parliament, that such a report should be made the ground work of a parliamentary proceeding. He felt himself at a loss to determine whether that House could, or ought to take the report of the council as the guide of its conduct; he was rather inclined to think that it ought to order the attenddance of his Majesty's physicians, and hear them examined at the bar, before any final measure should be proposed or adopted. This, however, he threw out only as his private opinion; the House would judge for itself.

Mr. *Pitt* said, that nothing could be farther from his intention, than to preclude any measure which the House might, in its wisdom think necessary to adopt, for the purpose of procuring the most ample information. He was of opinion, however, that when gentlemen reflected upon the delicacy of the subject, and the dignity of the great personage to whose state of health the report referred, they would think with him that the mode pursued by the privy council was precisely that which ought to have been adopted, and which parliament might, without suffering the least infringement of its dignity, pursue. The examination of the physicians, by the privy council, had been taken upon oath, which could not be the case if they were to be examined at the bar of the House.

Mr. *Fox* said, that however willingly he acquiesced in the steps that had been taken in this melancholy business, he still had his doubts whether gentlemen ought to rest satisfied without the personal examination of those physicians, on whose testimony they were to found consequences of the utmost importance. They would, no doubt, all feel it necessary to act with every possible delicacy in the course of their proceedings; but, at the same time, if delicacy and their duty should happen to clash, the one ought not to be sacrificed to the other.

The question was then agreed to *nem. con.*

The *Speaker* now expressed his doubts, whether, during the inefficiency of one branch of the legislature, he was competent to issue writs for filling up the vacancies that should happen in the representation of the people in that House. It was the present vacancy in the borough of Colchester, occasioned by the death of sir Edmund Affleck, that first suggested to him the grounds of those doubts.

Mr. *Pitt* was decidedly of opinion, that though no act could take place which required the joint concurrence of the different branches of the legislature, yet each of them in its separate capacity was fully competent to the exercise of those powers which concerned its own orders and jurisdiction.

The House then adjourned.

Dec. 8. Mr. *Pitt* rose, and having desired permission to offer some necessary remarks to the consideration of the House, previous to their entering upon the discussion of the order of the day, added that, on the preceding Thursday when the motion had been made, "That the minute of the examination of the physicians who had attended his Majesty during his illness, as delivered upon oath before the Lords of the Council, be that day taken into consideration," some gentlemen had entertained doubts, whether that would be the proper way to found a parliamentary proceeding; and he had, at the time, hinted an idea, that the examination having been taken on oath would be sufficient; but he had spoken on the impulse of the moment, and was exceedingly desirous that the mode of proceeding should be perfectly satisfactory to the House in

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general. He wished to know if it was the sense of any number of gentlemen, that a particular inquiry before a Committee of their own House would be a more regular way of proceeding, and whether the communication already made from the privy council of their minutes, was not deemed fully sufficient. He should also beg leave to state to the House, that, since their last meeting, two more physicians had been called in to attend his Majesty, one of whom was peculiarly skilled in the treatment of cases similar to that under which his Majesty unfortunately laboured. These additional physicians had also been examined before the privy council; but possibly their having been called in might, by some gentlemen, be considered as another and a cogent reason, for appointing a Committee of the House to examine the physicians. He had therefore thought it his duty to throw out these suggestions, that the House might signify their sense upon them; and also if any gentleman or any number of gentlemen, should be of opinion that it would be more satisfactory to appoint a Committee, whether by an instruction to the said Committee, they might not be empowered to search for precedents, as well as to examine the physicians, since on such an occasion as the present, it would certainly be expedient to proceed with all dispatch consistent with the solemnity of the subject. Mr. Pitt concluded with moving, "That the order of the day be read." This being done,

Mr. *Vyner* said, that what had fallen from the right hon. gentleman struck him as rather extraordinary. The right hon. gentleman talked of collecting the sense of the House. He wished to be informed how he could collect the sense of the House, without some motion for that purpose.

Mr. *Pitt* said, he had thrown out his former suggestions merely for the consideration of the House, and therefore did not think it at all extraordinary to do it in the mode that he had adopted. He perfectly well knew, that there was not any way of collecting the sense of the House fully and formally, but by a motion; but what he had endeavoured to find out, was solely, whether it was the general opinion, or the opinion of any number of gentlemen that it would be desirable to have an examination of the physicians, who had attended his Majesty, before a committee. From the silence which prevailed, he had been led to conceive that it would be more satisfactory to proceed in that way; and indeed, the circumstance of two more physicians having been called in, appeared to him to amount to a strong reason for such a procedure. Unless, therefore, he heard some objection to that idea, he would take the liberty of moving, "That a committee be appointed to examine the physicians who have attended his Majesty, touching the state of his health, and report such examination to the House."

Mr. *Powys* said, that the appointment of such a committee appeared to him to be the only way by which the House could obtain proper intelligence for them to proceed upon, and he was glad that it came recommended by such high authority; but he entertained his doubts, whether the House could go farther on that day, than agreeing to the appointment of a committee. He explained himself to mean, that it had better be a joint committee of the two Houses, not only to make the proceeding the conjoint act of both, but as he had found, from the examination of precedents of former proceedings of an analogous nature, that the deficiency of the evidence given before a committee of that House singly (who could not administer an oath) was cured by the witnesses to be examined before a joint committee, being all sworn at the bar of the House of Lords.

Mr. *Pitt* said, he believed the mode of proceeding suggested by the hon. gentleman had been adopted, but for a long time abandoned, and he doubted whether it would not be advisable, in the present instance, to avoid recurring to it, as it might possibly cause much difficulty or delay. He knew the instance to which the hon. gentleman referred; but he did not believe there were four instances on the Journals; and the mode of constituting a joint committee, in those instances, had been to appoint double the number of members of that House, in proportion to the number of peers. He doubted much whether the Lords would consent to the appointment of a committee so constituted, and therefore, as it must be extremely desirable that no difference should arise between the two Houses, he thought it more prudent to appoint a committee of their own, and act upon their report.

Mr. *Burke* said, that he rose not to controvert any one point in the right hon. gentleman's argument, nor even to excite a doubt concerning any point which he had advanced, but merely to enter his

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protest, which he must ever do on any occasion, against what the right hon. gentleman had stated on a former day, and just hinted at that day, though, indeed, he had not much rested on it, and that was, the inefficacy of an examination before that House, because they had not the power to administer an oath to witnesses. He never would suffer that to be made an argument against the House proceeding in its inquisitorial capacity, without resisting so dangerous a doctrine. Maimed and imperfect, cramped and limited as the House might be in some particulars, he conjured them to preserve all their capacities, and most especially was it necessary for them to hold their capacities sacred, and maintain them with firmness in situations of extreme delicacy and importance, and such he considered the present to be. He reminded them, that in questions of the highest judicial importance, affecting considerations of the first magnitude, the House had never satisfied itself, but on the examination of witnesses at their own bar, or, what he considered as the same thing, before a committee of their own members, appointed by the House, and acting as their representative. He stated the case of a divorce bill, which, as they well knew, always originated in the Spiritual Court in Doctors' Commons, where all the proceedings were upon oath; it next travelled to Westminster-hall, where the witnesses also delivered their evidence upon oath, and they were afterwards heard at the bar of the House of Lords upon oath likewise; and after that triple knot of evidence legally given, it was customary, when the Bill came down to that House, for the House to disregard all that had passed, and to ground their proceedings with regard to the Bill, on the evidence of the witnesses examined at their own bar, according to their own forms. The more arduous, delicate, and difficult the business that came before the House was, the more tenacious they ought to be of their privileges and capacities, and in order to enforce that, it was, that he had risen; not to object to any of the principles or inferences of the right hon. gentleman, but merely to question one of his premises, which, in his mind, called for observation.

Mr. *Pitt* then moved the question, "That a Committee be appointed, and that the Committee consist of twenty-one members." This being agreed to, he next proceeded to name the Committee as follows; viz. The Chancellor of the Exchequer, lord North, Mr. W. W. Grenville, Mr. Fox, the Master of the Rolls, Mr. F. Montagu, Attorney-general, Mr. Vyner, Mr. Dundas, Mr. Powys, Solicitor general, Mr. Sheridan, Mr. Hussey, Lord Advocate of Scotland, marquis of Graham, lord Belgrave, sir Grey Cooper, Mr. Wilberforce, Mr. Windham, Mr. P. Yorke, and earl Gower.

Dec. 10. Mr. *Pitt* presented the report of the Committee, appointed to examine the physicians who have attended his Majesty, touching the state of his health, and to report such examination to the House. The Report was as follows:

REPORT.

The Committee appointed to examine the physicians who have attended his Majesty, during his illness, touching the state of his Majesty's health; and to report such examination to the House; have, pursuant to the order of the House, proceeded to examine the said physicians; which examination is as follows:

Dr. *Richard Warren* called in, and examined.

Whether, in his opinion, the state of his Majesty's health is, or is not, such as to render his Majesty incapable, either of coming to parliament, or of attending to public business?—His Majesty's state of health is such as to render him incapable of coming to parliament, or attending public business.

What hopes has Dr. Warren of his Majesty's recovery?—The hopes of his Majesty's recovery must depend on the probability of cure; and that can only be judged of by what has happened to others in similar cases; and as the majority of others have recovered, there is a probability that his Majesty may recover likewise.

Can Dr. Warren form any judgment, or probable conjecture, of the time which his Majesty's illness is likely to last?—No.

What degree of experience has Dr. Warren had of the particular species of disorder with which his Majesty is afflicted?—In the course of 27 or 28 years practice, I have seen many persons disordered in a manner similar to that of his Majesty; some have soon recovered under my sole care; when that has not happened, I have always called in the persons who make this branch of medicine their particular

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study, and have sometimes attended in conjunction with them, but have oftener left the patients to their care, and have afterwards attended in consultation only, and in many cases not at all.

Whether, when Dr. Warren speaks of others in similar cases to that of his Majesty, he means to include all the different species of the disorder, or to confine himself to that particular species with which his Majesty is afflicted?—I do not mean to confine myself to that particular species with which his Majesty is afflicted, but to include all the different species of the disorder.

Can Dr. Warren state how many particular species there are of this disorder?—No.

Can he state any distinct species of the disorder?—Yes; though the immediate causes of this disorder cannot be ascertained, yet some of the remote ones are well known. Injuries received from blows or falls; sudden affections of the mind; the effect of fever. Besides these, there are several internal causes of this disorder; namely, exostoses, indurations, and ill-conformation of the parts.

Whether this disorder may not sometimes exist, when it cannot be referred to any of those causes which Dr. Warren has specified.—Yes.

Is his Majesty's disorder, in your opinion, referrible to any of the causes enumerated by you, or can you assign any known cause to which, in your judgment, it is referrible?—I cannot assign his Majesty's malady to any cause whatever, as I have not data sufficient to ground an answer upon.

In those species of the disorder, which are not referrible to any assignable cause, is the probability of cure greater or less than the probability estimated on all the species taken together?—I cannot tell.

Can Dr. Warren state what the comparative probability is, in each of the causes which he has assigned?—The disorder proceeding from external injuries, such as blows, is frequently cured if medicine be expeditiously applied. When the malady arises from sudden affections of the mind, it is very frequently cured; when from the effect of fever, it is oftener cured than when from any other cause. When the malady proceeds from the internal causes mentioned above, no good can be done by medicine.

Can Dr. Warren state what proportion, of the whole number of persons afflicted with this malady, have been so, owing to each of the causes he has enumerated, and what proportion, where it can be referred to no assignable cause? I cannot state any precise proportion; but, out of a great number, there are very few cases where it is possible to ascertain that it proceeds from any assignable cause.

Is there any one of the particular causes enumerated, to which Dr. Warren can say, that the disorder with which his Majesty is afflicted is not to be referred?—I do not think his Majesty's disorder appears to proceed from any one of the causes enumerated by me.

Can Dr. Warren say with certainty, whether his Majesty's disorder may, or may not, have proceeded from injury by blows or falls?—I cannot.

Can Dr. Warren say with certainty, whether his Majesty's disorder may, or may not, have proceeded from sudden affections of the mind?—I cannot.

Can Dr. Warren say with certainty, whether his Majesty's disorder may, or may not, have been the effect of fever?—I can say with certainty it has not.

Can Dr. Warren say with certainty, whether his Majesty's disorder may, or may not, have proceeded from any of the internal causes he has mentioned?—I cannot.

Whether, in those species of the disorder which cannot be referred to any assignable cause, the probability of cure may not be various in different cases, according to the symptoms of the particular case, or the apparent degree of the disorder?—I think not, unless signs of convalescence are coming on.

Whether the knowledge of the remote cause is of assistance towards promoting the cure?—In many cases I think it is, but sometimes not.

Whether, in his Majesty's disorder, Dr. Warren sees any present signs of convalescence?—No.

Whether every cure, in the same person, of a disorder which has returned, is included in the calculations of the whole number of cures?—I consider every case that comes as a new case, and have included them in that calculation; but I believe that, excluding them, the majority still are cured.

Whether, of those persons whose disorder cannot be referred to any assignable cause, the greater number have, or have not been cured?—I cannot answer that with accuracy.

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Has the greater number of men that have been afflicted with this disorder, recovered?—Yes.

Has the greater number of persons recovered, whose disorder has lasted, without signs of convalescence, as long as that of his Majesty has already done?—Yes.

Sir *George Baker* called in, and examined.

Whether, in your opinion, the state of his Majesty's health is or is not, such as to render his Majesty incapable, either of coming to Parliament, or of attending to public business?—I think that the state of his Majesty's health is such, as renders him incapable of coming to Parliament, or of doing any other public business.

What hopes has sir George Baker of his Majesty's recovery?—I hope that his Majesty will recover, because I think it probable. My own experience, and the experience of other physicians, lead me to think that his Majesty's disorder is curable.

Can sir George Baker form any judgment, or probable conjecture, of the time which his Majesty's illness is likely to last?—I can form no judgment or conjecture as to the probable duration of his Majesty's disorder.

What degree of experience has sir George Baker had of the particular species of disorder with which his Majesty is afflicted? I was formerly a pupil of Dr. Batty's, who attended an hospital, where I had an opportunity of seeing many instances of this disorder. I have likewise had private patients, from time to time, under that disorder; but whenever the disorder has been of some continuance, I have desired the assistance of physicians who particularly attended persons so disordered.

Whether sir George Baker founds his opinion, in his answer to the second question, upon the particular symptoms of his Majesty's case, or upon his experience of the disorder in general, or upon both?—Upon my experience of the disorder in general.

Whether, in his Majesty's disorder, sir George Baker sees any present signs of convalescence?—I do not see any present signs of convalescence.

Whether sir George Baker learns from experience that the greater number of persons, who have been afflicted with this disorder, have recovered?—Upon general experience, the greater part have recovered.

Whether every case in the same person, of a disorder which has returned, is included in the calculation of the whole number of cures?—I will not undertake to answer that question.

Has the greater number of men, that have been afflicted with this disorder, recovered?—I think so.

Has the greater number of persons recovered, whose disorder has lasted, without signs of convalescence, as long as that of his Majesty has already done?—Yes, I can answer that in the affirmative.

Was sir George Baker in attendance upon his Majesty, as his physician, previous to his being afflicted with his present disorder?—Yes.

Whether Sir George Baker can assign any known cause, to which, in his judgment, his Majesty's present disorder is referrible?—I can assign no known cause to which his Majesty's present disorder is referrible.

Was the attack of his Majesty's disorder sudden or gradual?—Sudden.

When did that attack take place?—The first suspicion I had of this disorder was in the evening of Wednesday the 22d of October last.

Whether any fever, or other complaint, had preceded that attack?—There had been fever and other complaints; but on that morning his Majesty had no fever.

Whether, in cases where the attack has been sudden, the recovery has been sudden also?—My observations on this disorder do not enable me to answer that question.

The Rev. Dr. *Francis Willis* called in, and examined.

Whether, in his opinion, the state of his Majesty's health is or is not, such as to render his Majesty incapable, either of coming to Parliament, or of attending to public business?—He certainly is not capable.

What hopes has Dr. Willis of his Majesty's recovery?—I have great hopes of his Majesty's recovery. If it were any other person but his Majesty, I should scarce entertain a doubt: when his Majesty reflects upon an illness of this kind, it may depress his spirits, and retard his cure more than a common person.

Can Dr. Willis form any judgment, or probable conjecture, of the time which his Majesty's illness is likely to last?—I cannot.

What degree of experience has Dr. Willis had of the particular species of

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disorder with which his Majesty is afflicted?—A great deal for 28 years; I imagine I have never had less than thirty patients every year of the time.

Whether Dr. Willis founds his opinion, in his answer to the second question, upon the particular symptoms of his Majesty's case, or upon his experience of the disorder in general, or upon both?—Upon both.

Whether in his Majesty's disorder, Dr. Willis sees any present signs of convalescence?—I cannot say that I do; at the same time there is every thing leading towards it, as the irritation has, in a great measure subsided, which must precede convalescence, or any appearance of it: it must come on very gradually.

Whether Dr. Willis learns from experience, that the greater number of persons, who have been afflicted with this disorder, have recovered?—A very great majority: I do not think I should speak false, if I said nine out of ten, of those that have been put under my care, whithin three months after they had begun to be afflicted with the disorder.

Whether every cure in the same person, of a disorder which has returned, is included in the calculation of the whole number of cures?—If a person has been twice brought under my care, and twice cured, I reckon two cures, as I should of a fever.

Has the greater number of men, that has been afflicted with this disorder recovered?—I never calculated that; I did not think there was any difference between the two sexes as to the facility of cure.

What state of his patients does he conside as a cure?—Their being able to take upon themselves the conduct of their own affairs, and to do the same business they were used to do before they fell ill.

What is the shortest space of time within which, in his experience, he has known persons, affected as his Majesty is, restored to health?—Six weeks or two months is the shortest, I believe.

Does Dr. Willis see any thing in his Majesty's case which enables him to pronounce that his Majesty may not be restored to health within that compass of time from the commencement of his attendance on his Majesty?—I do not see any thing to enable me to pronounce that he may not.

Does Dr. Willis see any thing in his Majesty's case, which enables him to pronounce that his Majesty will be restored to health within that space of time?—I cannot presume to say that he will.

What has been the longest space of time for which the disorder has lasted, in the case of such patients as have been brought to him within three months from the beginning of the attack, and have recovered?—A year and a half, I believe, has been the longest of such patients as have been brought to me; and few have been so long.

What is the most ordinary space of time he has found necessary for the cure of such patients?—I should think five or six months, as near as I can calculate.

How long has Dr. Willis attended his Majesty?—Since Friday morning last.

Whether, from your own observation, or from the particulars which have been communicated to you, you can assign any known cause to which, in your judgment, his Majesty's disorder is referrible?—From my own experience with regard to his Majesty, I cannot say any thing; but from a very particular detail of his mode and manner of life for twenty-seven years, I do imagine, that weighty business, severe exercise, and too great abstemiousness, and little rest, has been too much for his constitution. It is very early to give an opinion, and I may be mistaken; but I am the more inclined to think myself right, because the medicine that has been given his Majesty ever since Sunday morning, and was intended to meet and counteract those causes, has had as much effect as I could wish; and his Majesty has certainly been gradually better from the first six hours of his taking it.

Whether you have reason to believe, that the circumstances you have enumerated are frequently causes of this disorder?—I believe they are very frequently.

Where the disorder has arisen from such causes, have you frequently known it cured?—Very frequently.

Have the greater number of those cases been cured or not?—Certainly. I believe they are more easily to be cured, than where the disorder proceeds from excessive drinking, or other intemperance, or some other causes.

Dr. *Thomas Gisborne* called in, and examined.

Whether, in his opinion, the state of his Majesty's health is, or is not, such as to render his Majesty incapable of coming to

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parliament, or of attending to public business?—I think he is absolutely incapable.

What hopes has Dr. Gisborne of his Majesty's recovery?—I think there are hopes.

Can Dr. Gisborne form any judgment, or probable conjecture, of the time which his Majesty's illness is likely to last?—I think that is impossible.

What degree of experience has Dr. Gisborne had of the particular species of disorder with which his Majesty is afflicted?—Not much particular experience. I have seen persons affected in the same way, even to a greater degree, who have recovered.

Whether Dr. Gisborne founds his opinion, in his answer to the second question, upon the particular symptoms of his Majesty's case, or upon his experience of the disorder in general, or upon both?—Upon both.

Whether, in his Majesty's disorder, Dr. Gisborne sees any present signs of convalescence?—I think that can hardly be said.

Whether Dr. Gisborne can assign any known cause to which, in his judgment, his Majesty's present disorder is referrible?—No.

Dr. *Anthony Addington* called in, and examined.

Whether, in your opinion, the state of his Majesty's health is, or is not, such as to render his Majesty incapable either of coming to parliament, or of attending to public business?—I think he is incapable, at least he was when I saw his Majesty last. It was about a week ago.

What hopes has Dr. Addington of his Majesty's recovery?—I think there are very good grounds of hope.

Can Dr. Addington form any judgment, or probable conjecture, of the time which his Majesty's illness is likely to last?—It is a hard matter to form any certain judgment or conjecture.

What experience has Dr. Addington had of the particular species of disorder with which his Majesty is afflicted?—I had patients, in a house that I built at Reading, for five years antecedent to the year 1754, when I came to London.

Do you found your opinion, in your answer to the second question, upon the particular symptoms of his Majesty's case, or upon your experience of the disorder in general, or upon both?—I think there is some reason to found it upon symptoms, as well as experience. Though I have seen his Majesty very unquiet, it did not arise to that degree of inquietude which denoted a disease that would be of very long duration. I thought there was something in the very habit of body, as well as in his Majesty's complexion, and in what had been his way of life, that was very favourable to a cure. Where there is not a very great exertion of body or mind, persons who have lived in the way his Majesty has done, are very rarely liable to this illness. From the account I had from my brethren, who had the honour to attend his Majesty, I had very great expectations that it would end happily, from this circumstance—that it had not for its forerunner that melancholy which usually precedes a tedious illness of this sort. I never knew an instance of an illness, that, under proper care, run to any great length, which had not been so preceded. As for experience, I have visited a considerable number of patients in that disease, in and round Reading. Finding they could not be taken so much care of as they ought to be in their houses, and that I might be as little interrupted as possible in the practice of other branches of my profession, I built a house, contiguous to my own, for the reception of such patients. I visited them there constantly every day. I had from eight to ten patients there usually at a time. During that time, two patients were admitted, who were reasonably deemed to be incurable at the time of their coming, and for years before. During the charge of my patients, for five years together, at that house, I never had more than two other patients that were not cured within the year, and continued well, as far as ever I knew. Some recovered in much shorter time; and I had several that were quite well within a quarter of a year. If any of those persons had relapsed, I believe, from the partial opinion of their families, I should have heard of it. Where there is a relapse, I should not call it a perfect cure.

What state of the patients did Dr. Addington consider as a cure?—When the patient was able to do every thing that a man in health does.

What were the particular circumstances of the two patients before mentioned by Dr. Addington, which occasioned their being incurable?—One of those persons had been for many years under the care

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of a very skilful physician, in an house for the reception of patients under this disorder. It was a case that was different from all others with which I have been acquainted, both in the cause, and in the circumstances which preceded and attended it. The other was a patient who, I believe, had been ill very many years; she had been for some time under the care of an eminent physician, who wished her to be put into a house where she might be taken care of for life; she was atrabilious in the highest degree, and died, from the effects of that disorder, in about a week.

Whether the majority of the patients under your care were men, or women?—I think nearly equal.

Whether Dr. Addington professed to take, and did in fact take, all patients that were offered him?—I had not always room. I excluded none on account of the nature of the disorder.

What has been Dr. Addington's attendance on his Majesty?—I saw his Majesty for three days successively, and for twice each day for a considerable time.

Whether, during the time of that attendance, he observed any signs of actual convalescence in his Majesty?—No.

Whether, from your own observation, or from the particulars which have been communicated to you, you can assign any known cause to which, in your judgment, his Majesty's disorder is referrible?—I cannot pretend to say what the cause was, either from what I saw, or what was communicated to me. I do not choose to hazard conjecture.

Sir *Lucas Pepys* called in, and examined.

Whether, in your opinion, the state of his Majesty's health is such as to render his Majesty incapable, either of coming to parliament, or attending to public business?—The state of his Majesty's health is certainly such as to render him incapable of coming to parliament, or attending to public business.

What hopes has sir Lucas Pepys of his Majesty's recovery?—I have the same hopes of his Majesty's recovery as I should have if he were labouring under any other disease, of which I knew that the majority labouring under it did recover. That the majority do recover, I am satisfied from my own experience, and from the assurance of a person who has most experience in cases of this sort.

Can sir Lucas Pepys form any judgment, or probable conjecture, of the time which his Majesty's illness is likely to last?—It is impossible to form any conjecture on that subject.

What degree of experience has sir Lucas Pepys had of the particular species of disorder with which his Majesty is afflicted?—I have occasionally seen several persons under that disorder, sometimes alone, but more frequently with those whose practice leads them more particularly to attend to it.

Whether, in his Majesty's disorder, sir Lucas Pepys sees any present signs of convalescence?—His Majesty is more quiet than he has been; but there are no present signs of immediate convalescence.

Are there any actual symptoms at present, which lead sir Lucas Pepys to entertain more favourable hopes of his Majesty's recovery, than he has hitherto had during his attendance?—I think there are very material symptoms, as his Majesty's general state of health is certainly much better than it was.

Is the amendment that has taken place, only in his Majesty's general state of health, or is there any abatement of his particular disorder?—From his Majesty's general state of health being better, his sleep is more quiet, his appetite is better, and he is more in his usual state; all which circumstances must previously occur before recovery; but these are only leading steps towards recovery—the disorder still remains: it is difficult to say whether it is actually abated.

What does sir Lucas Pepys mean by his Majesty being more in his usual state?—More quiet, and in a less perturbed state.

Whether it is sir Lucas Pepys opinion, that there is, or is not, at present any abatement of his Majesty's disorder?—I have answered it, by saying that it is difficult to say whether there is any actual abatement, and I wish to explain my meaning in these words. The only way of explaining it is, by analogy to some other complaint. In the case of a mortification, where the bark would most probably effect a cure, I could not say, during several hours after its being taken, whether there was, or was not any abatement of the mortification: so, in the case of his Majesty, I cannot say whether the return of general health has, or has not, yet produced any actual abatement of the particular disorder; but such a return of general good health would lead me to be of opinion that an evi-

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dent abatement might be expected. I can, however, say, that no actual evident abatement has yet taken place.

When sir Lucas Pepys, in his answer to the second question, states that the majority of persons labouring under the same disorder with his Majesty do recover, does he mean to include all the different species of the disorder, or to confine himself to that particular species with which his Majesty is affected?—I mean in that estimate to speak of the disorder generally, and not specially.

Can you assign any known cause to which, in your judgment, his Majesty's present disorder is referrible?—I know no evident, or assignable cause.

Is his Majesty's a frequent species of the disorder?—It is a frequent species of the disorder.

In this species do the majority recover?—Certainly in this species the majority do recover.

Dr. *Henry Revel Reynolds* called in, and examined.

Whether, in your opinion, the state of his Majesty's health is, or is not, such as to render his Majesty incapable, either of coming to parliament, or of attending to public business?—His Majesty is certainly incapable of it.

What hopes has Dr. Reynolds of his Majesty's recovery?—I think there are well-founded hopes of his Majesty's recovery.

Can Dr. Reynolds form any judgment, or probable conjecture, of the time which his Majesty's illness is likely to last?—No.

What degree of experience has Dr. Reynolds had of the particular species of disorder with which his Majesty is afflicted?—I have been almost twenty years in business, and in the course of that time I have seen a great number under this disorder, both singly and together with others.

Whether you found your opinion, in your answer to the second question, upon the particular symptoms of his Majesty's case, or upon your experience of the disorder in general, or upon both?—Rather upon general experience; though I think there is nothing peculiar in his Majesty's case which forbids the presumption of recovery.

Whether, in his Majesty's disorder, you see any present signs of convalescence?—I do not see any present signs of convalescence; though I think his Majesty's being quieter, and in a better state of general health, would lead me to hope that it is a step towards it.

Whether Dr. Reynolds learns from experience, that the greater number of persons afflicted with this disorder have recovered?—The greater number, I think, have recovered.

Whether Dr. Reynolds apprehends, that in calculations founded on general experience, every cure in the same person is included?—I apprehend that it is; they consider every distant relapse as a new disease.

Whether Dr. Reynolds can assign any known cause to which, in his judgment, his Majesty's disorder is referrible?—No; I cannot.

These examinations having been, upon motion, ordered to lie on the table,

Mr. *Rolle* wished that they might be printed. He said, that the eyes of the whole nation were fixed on their proceedings, and that the public felt an eager anxiety to know the true state of his Majesty's health. If the authentic report of the Committee appointed to examine the physicians was not printed, imperfect and mutilated accounts might be circulated, that might wound the feelings of the people; whereas the report held out hopes, that could not fail to dispel the gloom which had hung over the nation for some weeks past.—Upon a cry of Move! move!—Mr. Rolle moved, "That a sufficient number of copies be printed for the use of the members."

Mr. *Powys* said, that if the report was to be printed, time should be allowed for it to be circulated round the country, before the House proceeded to take any one step grounded on the information contained in the examinations.

Mr. *Pitt* said, that essential as the printing of the report would be to the satisfaction of the public, he must, however reluctantly, object to the motion if the passing of such vote was to be made the ground of argument for any farther delay of a motion, of which he had given notice last monday, for the appointment of a committee to examine and search for precedents—a motion, the adoption of which, with all possible dispatch, a due regard to the public interests rendered necessary, and which, as soon as the present question was disposed of, he should submit to the House.

The motion being put, was agreed to.

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Mr. *Pitt* said, that the paper from the privy council, which had been already placed upon the table, as well as the more regular examinations of which the House had just heard the contents, afforded them sufficient information, both with regard to the melancholy subject which had occasioned them to assemble, and the opinions of the physicians thereon; and must fill their minds with a reasonable hope, that a happier moment would arrive than the present, although the faculty who had been consulted, were still unable to declare the precise time of its arrival. Gratified, however, as the House must be in that expectation, yet the uncertainty how long it might be protracted, rendered it their indispensable duty to proceed with every degree of dispatch, and in the most respectful manner, to take those intermediate steps which the unfortunate exigency of the moment required, in order to provide for the present serious situation of affairs, with a view to guard the liberties of the people from danger, and secure the safety of the country; that his Majesty might have the gratification of knowing, when the happy moment of his recovery should arrive, that the people whom he had loved and protected, had suffered as little as possible by his illness. The point to be agitated on this occasion, involved in it whatever was dear to the interests of the country, whatever was valuable to the people, whatever was important in the fundamental principles of our free constitution. The steps to be taken, therefore, preliminary to the discussion of this interesting subject, were such as he could not conceive likely to create any difference of opinion. That the House might have the advantage of the wisdom of their ancestors to guide their proceedings, and act upon the fullest information, he should move for the appointment of a committee to examine into, search for, and report precedents, from which report they would be enabled to see, what had been the steps taken in former moments of difficulty and danger, whence they might proceed with the greater security in providing for the present melancholy circumstances of the country. He conceived the report of such a committee might be made in the course of the present week. He then moved; "That a committee be appointed to examine and report precedents of such proceedings as may have been had, in case of the personal exercise of the royal authority being prevented or interrupted, by infancy, sickness, infirmity, or otherwise, with a view to provide for the same."

Mr. *Fox* having premised that he was happy to feel a coincidence of sentiments with those of the right hon. gentleman in most parts of his speech, added, that undoubtedly it was their duty to lose no time in proceeding to provide some measure for the exigency of the present moment, but that exigency was so pressing in point of time, that he, for one, would willingly dispense with the motion then made. If the motion were carried, it must be considered, that it was loss of time. What were they going to search for? Not precedents upon their journals, not parliamentary precedents, but precedents in the history of England. He would be bold to say, nay they all knew, that the doing so would prove a loss of time, for there existed no precedent whatever, that could bear upon the present case. The circumstance to be provided for did not depend upon their deliberations as a house of parliament; it rested elsewhere. There was then a person in the kingdom different from any other person that any existing precedents could refer to—an heir apparent of full age and capacity to exercise the royal power. It behoved them, therefore, to waste not a moment unnecessarily, but to proceed with all becoming diligence to restore the sovereign power and the exercise of the royal authority. When the unfortunate situation of his Majesty was first made known to that House, by a presentation of the minute of the Privy Council, some gentlemen had expressed a doubt whether the House could make such a paper a ground of parliamentary proceedings. Mr. Fox reminded the House that he had gone farther, and declared he thought the Report of the Privy Council was not an authentic document, nor such as that House could make the ground of its proceedings. That defect had now been remedied, and the House was, in consequence of the regular examination which his Majesty's physicians had undergone before a committee of their own, in possession of the true state of the King's health. That being known to the House, and through them to the nation at large, he contended that it was then, and then only, the precise point of time for the House to decide, and that not a single moment ought to be lost. In his firm opinion, his royal highness the Prince of

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Wales had as clear, as express a right to assume the reins of government, and exercise the power of sovereignty, during the continuance of the illness and incapacity with which it had pleased God to afflict his Majesty, as in the case of his Majesty's having undergone a natural and perfect demise: and, as to this right, which he conceived the Prince of Wales had, he was not himself to judge when he was entitled to exercise it; but the two Houses of Parliament, as the organs of the nation, were alone qualified to pronounce when the Prince ought to take possession of, and exercise, his right. He thought it candid, entertaining this opinion, to come forward fairly, and avow it at that instant; and therefore, under such an idea, he conceived that as short a time as possible ought to intervene between the Prince of Wale's assuming the sovereignty, and the present moment. He justified the Prince's not making this his indubitable claim himself, by imputing his desire of waving the open advancement of it, to his having been bred in those principles which had placed his illustrious House on the throne, and to his known reverence and regard for those principles, as the true fundamentals of our glorious constitution, in the maintenance of which, his family had flourished with so much prosperity and happiness, as sovereigns of the British empire. Hence it was, that his Royal Highness chose rather to wait the decision of Parliament, with a patient and due deference to the constitution, than to urge a claim, that, he trusted, a majority of that House, and of the people at large, admitted; and which, he was persuaded, could not be reasonably disputed. But, ought he to wait unnecessarily? Ought his Royal Highness to wait while precedents were searched for, when it was known that none, that bore upon the case which so nearly concerned him, existed? Take it for granted, the House agreed to the motion, and proceeded by their committee to search for precedents. What precedents did the wording of the motion point to? It spoke in general and indefinite language. Possibly it might mean parliamentary precedents, referring to such contingencies as the present. If that were its meaning, the words "parliamentary precedents" ought to have been expressed in it. He should not oppose the motion, but he thought it his duty to say, that it was incumbent on the House to lose no time in restoring the third estate. His Royal Highness, he was convinced, must exercise the royal prerogative during, and only during, his Majesty's illness. With regard to the examination of the physicians, he would not take up the time of the House with commenting on the particular answers and opinions of each. However the physicians might have delivered opinions, that might, in the minds of some men, impress one turn of idea, and, in the minds of others, a very different turn of idea, three points were, he thought, undeniable inferences from the whole of their examinations, in which he had assisted above stairs. These three points formed the result, and must be the *substratum* on which that House would necessarily raise the superstructure, whatever it might be, that they should deem it expedient to erect. He took the three points to be these: 1. That his Majesty was incapable of meeting his Parliament, or proceeding to business. 2. That there was a great prospect, and a strong probability, of his recovery. 3. But that with respect to the point of time when that recovery would take place, they were left in absolute doubt and uncertainty. Upon this occasion, Mr. Fox said, that he could not avoid expressing his hopes that the House would agree with him, that these three points formed the true, fair, uncoloured result of the examination of his Majesty's physicians. He recapitulated the general heads of his speech; and, after repeating his willingness to accede to every proposition that was consistent with the due solemnity of their proceeding, upon so serious an occasion, and declaring that he did not impute any desire to create delay, or unnecessarily avoid dispatch, to the right hon. gentleman who spoke last, added, that he certainly would not resist the motion, although he had thought it incumbent on him to give his opinion on the subject freely and unreservedly.

Mr. *Pitt* said, he must take the liberty to observe, that the right hon. gentleman had thrown out an idea which, whatever he might have generally thought of him, as to his penetration and discernment, as to his acquaintance with the laws and general history of the country, and as to his knowledge of the theory of the constitution—however he might repeatedly have found occasion to differ with him in respect to his measures and opinions in his practice under it—he defied all his ingenuity to support, upon any analogy of

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constitutional precedent, or to reconcile to the spirit and genius of the constitution itself. The doctrine advanced by the right hon. gentleman was itself, if any additional reason were necessary, the strongest and most unanswerable for appointing the Committee he had moved for, that could possibly be given. If a claim of right was intimated (even though not formally) on the part of the Prince of Wales, to assume the government, it became of the utmost consequence to ascertain, from precedent and history, whether this claim was founded; which, if it was, precluded the House from the possibility of all deliberation on the subject. In the mean time, he maintained, that it would appear, from every precedent and from every page of our history, that to assert such a right in the Prince of Wales, or any one else, independent of the decision of the two Houses of Parliament, was little less than treason to the constitution of the country. He did not mean then to enter into the discussion of that great and important point; because a fit occasion for discussing it would soon afford both the right hon. gentleman and himself an ample opportunity of stating their sentiments upon it. In the mean time, he pledged himself to this assertion, that in the case of the interruption of the personal exercise of the royal authority, without any previous lawful provision having been made for carrying on the government, it belonged to the other branches of the legislature, on the part of the nation at large, the body they represented, to provide, according to their discretion, for the temporary exercise of the royal authority, in the name, and on the behalf of the sovereign, in such manner as they should think requisite; and that, unless by their decision, the Prince of Wales had no more right (speaking of strict right) to assume the government, than any other individual subject of the country. What Parliament ought to determine on that subject, was a question of discretion. However strong the arguments might be on that ground, in favour of the Prince of Wales, which he would not enter into at present, it did not affect the question of right; because, neither the whole, nor any part, of the royal authority could belong to him in the present circumstances, unless conferred by the Houses of Parliament.—As to the right hon. gentleman's repeated enforcement of the Prince of Wales's claim, he admitted that it was a claim entitled to most serious consideration; and thence, argued, that it was the more necessary to learn how the House had acted in cases of similar exigency, and what had been the opinion of Parliament on such occasions. He would not allow that no precedent analogous to an interruption of the personal exercise of the royal authority, could be found, although there might possibly not exist a precedent of an heir apparent in a state of majority, during such an occurrence, and in that case, he contended, that it devolved on the remaining branches of the legislature, on the part of the people of England, to exercise their discretion in providing a substitute. From the mode in which the right hon. gentleman had treated the subject, a new question presented itself, and that of greater magnitude even than the question which was originally before them, as matter of necessary deliberation. The question now was, the question of their own rights, and it was become a doubt, according to the right hon. gentleman's opinion, whether that House had, on this important occasion, a deliberative power. He wished, for the present, to wave the discussion of that momentous consideration; but, he declared that he would, at a fit opportunity, state his reasons for advising what step Parliament ought to take in the present critical situation of the country, contenting himself with giving his contradiction of the right hon. gentleman's bold assertion, and pledging himself to maintain the opposite ground against a doctrine so irreconcileable to the spirit and genius of the constitution. If the Report of the Committee had not proved the necessity of the motion he had made, the right hon. gentleman had furnished the House with so strong an argument for inquiry, that if any doubt had existed, that doubt must vanish. Let it not, then, be imputed to him, that he offered the motion, with a view to create delay; indeed, the right hon. gentleman had not made any such imputation. In fact, no imputation of that sort could be supported; since no longer time had been spent, after the first day of their meeting, than was absolutely necessary to ensure as full an attendance as the solemnity of the occasion required; since that time, every day had been spent in ascertaining the state of his Majesty's health, and now the necessity of the case was proved, it behoved them to meet it on the surest grounds. Let them proceed, therefore, to ascertain their own rights;

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let every man in that House, and every man in the nation, who might hear any report of what had passed in the House that day, consider, that on their future proceedings depended their own interests, and the interest and honour of a sovereign, deservedly the idol of his people. Let the House not, therefore, rashly annihilate the authority of Parliament, in which the existence of the constitution was so intimately involved.

Mr. *Fox* begged the House would permit him to rise again to explain. The right hon. gentleman had, though he believed unintentionally, misrepresented what he had said; at least, an expression which the right hon. gentleman had used, might, if not explained, have the effect of a misrepresentation, on account of its equivocal meaning. The right hon. gentleman had charged him with something like treason to the constitution, for having asserted that the Prince of Wales had a right, from law, to the government, which the two Houses could not take away from him: the right hon. gentleman, however, in stating the position, instead of the words "the two Houses," substituted the equivocal word "Parliament:" it was this word which required explanation. If by parliament the right hon. gentleman meant the three branches of the legislature, consisting of King, Lords, and Commons, he would agree with him that such a position would be treasonable; for no doubt the parliament, in that sense, could alter or limit the succession, or place such restrictions as it pleased upon the exercise of the sovereign power. But if by parliament he meant the two Houses without the king, then he would be bold to say, such a parliament, if such could be entitled to that name, could not legally deprive the Prince of Wales of the regency during the incapacity of his father, and during that period only, or place any restrictions upon him in the exercise of the sovereign power in the name of his father, So far would it be from being treason in him to assert, "that the two Houses could alter the succession, or restrain the exercise of the sovereign power," that if he should be daring enough to support such a proposition, the King's attorney-general would prosecute him for uttering such a doctrine, and would show that he was open to the penalties of a præmunire for maintaining it.—Every one knew, he said, that he was no advocate for the antiquated and exploded doctrine of indefeasible hereditary right; but it had been declared that the crown of England was not elective. Now, if for the purpose of guarding against the discussion and anarchy of an elective government, the crown was by law declared to be hereditary, why should it not be inferred from analogy, that the exercise of the sovereign power was also hereditary. Such an inference was necessary to give life and spirit to the letter of the law, declaring the hereditary descent of the crown; and consequently the claim of the Prince of Wales to the right of assuming the government, during his father's illness, ought to be admitted. Indeed, he was astonished to find any one bold enough to dispute it. Some time ago, the Speaker had, from the chair, expressed his doubts, whether in the present state of affairs, the House had legally the power of ordering writs, even for the purpose of rendering its own representation complete; and yet the right hon. gentleman would contend, that it had a right to exercise the highest power, that of vesting, though for a time, sovereign authority in the person of a regent. In truth, it was matter of serious doubt whether, under the present circumstances, the House to which he was then speaking, was really a House of Parliament. Those meetings from which the country had derived the blessings of a free constitution, as settled at the Revolution, knew too well what they were, to call themselves a parliament; they called themselves by their true name, a convention, for they were no more, until a third estate was created. And perhaps the two Houses at present might be more truly styled a convention than a parliament, until the third estate was restored, by the recognition of the heir apparent's right, the declaration of the two Houses, or even an appointment of a regency under their authority.—He had said before, that the Prince's right to the Regency was indisputable: he would now go farther, and assert that it so belonged of right, during what he would call the civil death of the king, that it could not be more completely or legally his, by the ordinary and natural demise of the crown. The prince, therefore, who maintained that right, and yet forebore to assume it, was entitled to the thanks of his country. He was actuated by a respectful regard to the principles that had placed his illustrious family upon the throne: he waited to be informed of the sense of the people, before he would assume what no man had a right to take

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from him, what the law and the constitution had given him a right to take, without waiting for a declaration of either House of Parliament. It was not decent, therefore, to trifle with a prince, whose conduct was marked with such meritorious forbearance, by instituting an inquiry into precedents, that had nothing to do with the case. It was the duty of the two Houses to restore the royal authority, and that immediately; and he denied the right hon. gentleman, acute as he was, to contradict that assertion; but if the two Houses of Parliament took advantage of the present calamitous state of the country, to arrogate to themselves a power to which they had no right, they acted contrary to the spirit of the constitution, and would be guilty of treason.

Mr. *Pitt* wished it to be known what the point was, upon which the right hon. gentleman and he were at issue. He asserted, that to make a provision for the executive power of the government, during an interruption of the personal exercise of the royal authority, by sickness, infirmity, or otherwise, did rest with the remaining existing branches of the legislature. It was a matter entirely in their discretion; what that discretion was, he should not then discuss, but should only say, if the right hon. gentleman's doctrine was what he understood it to be, namely, that the two Houses had no such discretion, but that his Royal Highness had a claim to the exercise of the sovereign power, which superseded the right of either House to deliberate on the subject, there was an essential difference between their respective arguments, and that difference constituted the point upon which they were at issue.

Mr. *Burke* said, that he could not but reflect with astonishment on the style and manner in which the right hon. gentleman had debated the question; and contended, that if ever there was a question which peculiarly called for temper and moderation, it was that to which the present argument referred. The question did not point merely to an affliction of bodily infirmity, to an illness affecting the meanest and most perishable part of the human frame, but to the most humiliating of all human calamities which had fallen upon the highest situation. In that moment, when it peculiarly behoved every one of them to keep himself cool, and preserve the little share of reason with which Heaven had blessed him, the right hon. gentleman had burst into a flame; he had fallen out into a fury, and with a degree of unpardonable violence, had accused others of treason, because they ventured to mention the rights of any part of the royal family. The right hon. gentleman, in such a case, must not only have been aware of what people expected at their hands, but of what he owed to the importance and delicacy of the subject, and to his own high situation and character. The right hon. gentleman had expressed his hopes for a regency in a subject, at the very time that he was bringing forward a charge of treason. When he could not convince any one by his arguments, he had endeavoured to intimidate all who had dared to mention only the rights of the royal family, and had threatened them with the lash of the law. Where was the freedom of debate, where was the privilege of parliament, if the rights of the Prince of Wales could not be spoken of in that House, without their being liable to be charged with treason by one of the Prince's competitors? [Here there was a loud cry of order from the treasury side of the House.] Mr. Burke said, he would repeat and justify his words. The right hon. gentleman had expressly declared, that the Prince of Wales had no more right to claim the exercise of the sovereign power, than any other individual subject; he was warranted, therefore, in stating the right hon. gentleman as having described himself as one of the Prince's competitors. For his part, he was too humble in situation to make such a renunciation of right to the crown himself, but he would venture to say, that none belonging to the proudest and most exalted families, those who enjoyed the highest dignities, and were loaded with the most splendid titles and honours, would dare to hope for a chance of the regency, or to state themselves as having an equal right to claim it with the Prince of Wales. He must own he trembled when he considered that he stood before that prince, who held the lash of vindictive law over the heads of those who dared to question the subject. The right hon. gentleman had talked of the discretion of that and of the other House of Parliament: let him remember that the first step of discretion was coolness of temper, and let him show his own discretion before he recommended discretion to others. Before he gave his elective vote, for he might possibly be made an elector against his will, the prince op-

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posite to him, Mr. Burke said, ought not to measure people of low and timid dispositions by his own aspiring greatness of soul. He had read in some old law book, that nothing was so dreadful as when a subject was convicted of treason, without knowing what he had done that was treasonable. Let the right hon. gentleman recollect the 25th of Edward 3, and not be so eager to hurl his constructive treasons on the heads of those who differed from him respecting the Regency. He had ever understood, that our constitution was framed with so much circumspection and forethought, that it wisely provided for every possible exigency, and that the exercise of the sovereign executive power could never be vacant. He put the case, that if he supposed that there might be a right in the Prince of Wales (in whose patent of creation as Prince of Wales, he was declared and considered to be one and the same with the King) to succeed his father in the exercise of the royal prerogative, and should proceed upon that supposition to urge a suit in the Court of Chancery, or any other court, should he be liable to be convicted of high crime and misdemeanor for such an assertion? In that case, he conceived the charge of treason would not be made upon a sudden; but, if urged at all, it would be urged without any attempt at intimidation, any look of fury, or any voice of harshness. And yet, perhaps, the charge was thrown out merely to advise in the first place, that the Prince of Wales had no more right than any other person; and all his hitherto conceived notions of the meaning of a loud and most vehement tone of voice was possibly wrong; since it might mean nothing more than to make the expression which it accompanied clearly understood! Be that as it might, if he were to give an elective vote, it should be in favour of that Prince, whose amiable disposition was one of his many recommendations, and not in favour of a prince, who charged the assertors of the right and claim of the Prince of Wales with constructive treason.

Mr. *Pitt* replied, that if the right hon. gentleman who had condescended to be the advocate and the specimen of moderation, had found any warmth in his manner of speaking before, which led him to think that he had not considered what he said, he was ready to repeat it with all possible coolness, and knew not one word that he would retract. Upon this ground, therefore, was he still ready to maintain, that it was little less than treason to the constitution to assert, that the Prince of Wales had a claim to the exercise of the sovereign power, during the interruption of the personal authority of his Majesty by infirmity and in his life-time; and to this asseveration should he adhere, because he considered such a claim as superseding the deliberative power and discretion of the two existing branches of the legislature. And, when he had said the Prince of Wales had no more right to urge such a claim than any other individual subject, he appealed to the House upon the decency with which the right hon. gentleman had charged him with placing himself as the competitor of his Royal Highness. At that period of our history, when the constitution was settled on that foundation on which it now existed, when Mr. Somers and other great men declared, that no person had a right to the crown independent of the consent of the two Houses, would it have been thought either fair or decent for any member of either House to have pronounced Mr. Somers a personal competitor of William 3?

The question was then put and agreed to, and the following members were named as a Committee; viz. The Chancellor of the Exchequer, Mr. Welbore Ellis, the Master of the Rolls, Mr. F. Montagu, Attorney-general, Mr. Vyner, Mr. Dundas, Mr. Powys, Solicitor-general, Mr. Sheridan, Mr. Hussey, Lord Advocate of Scotland, marquis of Graham, lord Belgrave, sir Grey Cooper, Mr. Wilberforce, Mr. Wyndham, Mr. Yorke, Earl Gower, Mr. W. W. Grenville, and Mr. Burke.

Dec. 12. Mr. Welbore Ellis appeared at the bar, with the report of the Committee appointed "to examine, search for, and report precedents of such proceedings, as may have been had in case of the personal exercise of the royal authority being prevented, or interrupted, by infancy, sickness, infirmity, or otherwise, with a view to provide for the same." He was ordered to bring up the Report, the title of which being read, Mr. Pitt moved, "That the said Report do lie on the table." This having been agreed to, it was ordered to be printed. [For a copy of the Report, see Commons Journals, vol. 44.*]

* References to the EXTRACTS from the ROLLS of PARLIAMENT, and other Papers, read at the Committee appointed to ex-

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Mr. *Pitt* said, that most probably it would be necessary to allow a convenient time for the House to consider the contents of the Report, and examine and weigh their application and force, before they came to any proceeding upon it; that as it was his earnest wish to use every possible dispatch consistent with the due solemnity of the case, he should move that the House would, on an early day, in the course of the ensuing week, resolve itself into a Committee, "to take into consideration the state of the nation," to which Committee he should refer the Report that had been just presented, and also the examinations of his Majesty's physicians. Tuesday, he hoped, would be a day agreeable to the House for the Committee whom he had named to sit, and with a view the better to enable gentlemen to make themselves masters of the contents of the Report, he took that opportunity of informing the House, that all the precedents contained in the Report were either taken from the rolls of parliament, the statute books of the realm, or their own journals. A schedule of the whole, with references, was annexed to the Report, which, he hoped, might be ready for separate delivery so early as the next morning, and such gentlemen as had the books in their possession, might thereby be enabled to refer to them immediately, and proceed to an inquiry into the doctrines contained in that Report, without waiting for the delivery of the printed copy. Mr. Pitt now moved, "That this House will, on Tuesday next, resolve itself into a Committee of the whole House, to take into consideration the state of the nation."

Mr. *Fox* remarked, that, two particular purposes were his motives for rising on the present occasion; and these he felt it incumbent upon him to lose no time in laying before the House, the more especially as they had reference to what had passed upon the subject that did then engage, and had for some days past engaged their most serious attention. The first purpose was what he never rose for before, since he had been a member of that House. No member was more indifferent to newspaper paragraphs, reports, and representations, than he was; he scarcely ever looked into any of their accounts of what he said in that House, without finding some part of his speech misrepresented; but he had thought it beneath him to take any notice of it himself, trusting, that if he had expressed himself clearly, the candour of that House, and the recollection of those who heard him, would do him justice. What he rose then to complain of was, a very different matter. There had, he said, been representations, or rather misrepresentations, not in newspapers, not in pamphlets, not in coffee-houses, but there had been misrepresentations of what he had said in that House on Wednesday last, publicly made, before a certain august assembly, by a grave person, in high authority, and of dignified rank. He desired the world to judge him and his opinions, from the sense of those opinions, and his meaning as explained at the time. There were different sorts of misrepresentations; there might be some wilful and intentional misrepresentations, others arising rather from levity, caprice, and wantonness, than mischievous design; and, again, another description of misrepresentations arising from the misconception of honest minds, made by persons who were themselves mistaken and acted upon that mistake. Under which of these descriptions of misrepresentation he had fallen, he would not take upon him to determine; possibly he might have not expressed his meaning clearly, though he thought he had spoken in a manner so explicit, that no man could misunderstand him; he was sure it arose, not from any contempt of his auditors, that he had not rendered himself more intelligible, but merely from the want of power and capacity to convey to their minds, what so

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amine and report precedents of such proceedings as may have been had in the case of the personal exercise of the Royal Authority being prevented or interrupted by infancy, sickness, infirmity, or otherwise, with a view to provide a remedy for the same; on Thursday, the 11th of December.

4, 5, 6 Edw. 3, vol. 2, p. 52, two first paragraphs; 1 R. 2, vol. 3, p. 5, s. 15 to 27, both inclusive; 1 H. 6, vol. 4, p. 169, s. 1, 11, 12, 13, 14, 15, 16, & 24 to 33, both inclusive; 2 H. 6, vol. 4, p. 201, s. 15; 3 H. 6, vol. 5, p. 406, s. 5; 5 H. 6, vol. 5, p. 407, s. 6, p. 409, s. 7; 6 H. 6, vol. 4, p. 326, s. 24, 25; 8 H. 6, vol. 4, p. 336, s. 13; 10 H. 6, vol. 5, p. 433, s. 16; 18 H. 6, vol. 5, p. 438, s. 22; 32 H. 6, vol. 5, p. 238, s. 22, 23, 24, & 30 to 40, both inclusive; 33 H. 6, vol. 5, p. 284, s. 20 to 39, both inclusive; 34 H. 6, vol. 5, p. 453, s. 41, 42, 43; 34 H. 6, vol. 5, p. 289, s. 40, 41; 34 H. 6, vol. 5, p. 321, s. 50; 25 H. 8, c. 22, s. 11; 1 & 2 Philip & Mary, c. 10; 24 G. 2, c. 24; 5 G. 3, c. 27.

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forcibly impressed his own; be that as it might, what had been understood to be his meaning, or what had been misrepresented to have been his expression and sentiment, when speaking as a member of parliament, ought not to have been treated as it had been; as if public proceedings, of a grave and solemn nature, ought to be grounded on so unsubstantial a foundation. The first point, from which he must exculpate himself was, the supposition of having spoken from the authority of any person whatever, much less from the authority of his royal highness the Prince of Wales. He had spoken merely of himself, and delivered his opinion, as an individual member of parliament. In that private capacity, and without the Prince of Wales's authority, he had freely delivered his opinion, and the opinion he had stated and meant to state, was, that from the moment that the two Houses of Parliament declared the King unable to exercise the royal sovereignty, from that moment a right to exercise the royal authority attached to the Prince of Wales. But he must state what that right was that so attached; and he would trust to the recollection of gentlemen, whether he had not so explained it, when he had last occasion to speak upon the subject. A new term had been put into his mouth in another place, which he had not used; it had been said, that he had declared, "that the Prince of Wales had a right to assume the royal authority, upon the interruption of its personal exercise, in consequence of the King's illness and incapacity." What he meant was this: he conceived the exercise of the royal authority to be the right, under such circumstances, of the Prince of Wales; but he had spoken of it as a right, and not the possession. Before the Prince could exercise that right, he must appeal to the court competent to decide, whether it belonged to him or not, or must wait till that court, on the part of itself, made such declaration. That court was composed of the two Houses of parliament, while they were sitting; the Prince had the right, but the adjudication of that right belonged to the two Houses. The more clearly to understand this, it was necessary to explain the precise meaning of the word election, and to contrast it with the term adjudication. That House could legislate and provide such measures, as it deemed advisable for the public interest: when they individually gave their votes for such persons, whom they thought most fit to represent them in parliament, they made their election of their representative; but when they sat in a committee above stairs, to try whether A. or B. was entitled to a seat as representative of such or such a borough, they sat as judges, and their report was an adjudication of the right of A. or B. If gentlemen would do him the honour to recollect his manner of treating this subject, on the preceding day, they would, he hoped, in justice admit, that the meaning which he had now explained, was precisely that which his words, on a former occasion, had then been calculated to convey, and that he neither talked of the usurpation of the two Houses, nor suggested a single idea to warrant the imputing to him any intention of that sort, or any thing like it. Let it be recollected where he was speaking, and to whom he was addressing himself; to the House of Commons, one of the constituent parts of the very court that was to make the adjudication of the Prince's right. Let it be recollected likewise, whether the rest of his argument, both in his speech and his reply, did not go expressly to the nature of the Prince's right, as he had now defined it. He had, in terms the most explicit and unequivocal, asserted it as his opinion, that when that and the other House of parliament declared his Majesty incapable of exercising the royal authority, that was the precise period of time when the prince's right attached, and when that House ought not to delay in restoring the royal authority. Had he not said, that the same principles that made the Crown hereditary, made the executive power, and the government of the country, hereditary likewise? Upon that ground it was, that he had argued as he had done, and this he conceived to be the nature of the Prince of Wales's right. Having thus, as he hoped, clearly explained his meaning, he was free to acknowledge, that greater differences of opinion prevailed respecting the right of the Prince of Wales to exercise the royal authority, under the circumstances so often stated, than he could have expected, but much of that difference of opinion, he found, arose from some nice, logical, and legal distinctions, taken between the term right, and claim: distinctions more equivocal, in his mind, than solid and substantial, and which were rested on arguments and principles, which he confessed his understanding was too dull to comprehend. One idea which he

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had learnt was, that several persons admitted that the Prince of Wales had an irresistible claim, which the parliament could not reject or refuse, whenever it was made, without forfeiting their duty to the constitution. To that idea, he, for one, had no objection; because he knew no difference between an irresistible claim, and an inherent right. In another place, the right of the Prince of Wales had been deeply investigated, and that by inquirers every way equal to the discussion, who all gave their sanction and authority to his opinion. If the Prince of Wales had done him the honour to have asked his advice how to proceed, he should have told him, as parliament was sitting, that he thought his royal highness might have sent a message to either, or to both Houses, stating his claim, and calling upon them to decide upon it. But, as he had said on a former day, his royal highness's forbearance was such, that he would send his claim to neither House of Parliament; but would wait patiently, and with due deference, being conscious that the two Houses ought to acknowledge the justice of that claim, and thereby restore the royal authority.—Mr. Fox declared, that he could not help thinking, that the conduct of his royal highness deserved the commendation he had bestowed on it, and was entitled to universal applause. For his own part, he could assert, that he had entertained sanguine hopes, that in the adjustment of a business of so delicate and important a nature, men of every description would have concurred in one leading and essential circumstance, and have allowed, that let there exist what doubt there might, of the Prince of Wales's right to exercise the royal authority under the present circumstances of the country, there could be none of the propriety of investing him with the sole administration of the government, and with the unlimited exercise of all the regal functions. He had not yet abandoned these hopes altogether. The right hon. gentleman had named an early day for the House to resolve itself into a Committee of the whole House to take into consideration the state of the nation; he did not mean by an early day, a day too early. He had before declared, that after the authentication of the King's incapacity, the House ought not to lose any time in restoring the royal authority; but, surely, it could not prove a matter of indifference whether the House should or should not, be enabled to know what sort of proposition it was, that the right hon. gentleman meant to bring forward on Tuesday next, in order that they might turn it in their minds, and come prepared to discuss it, with some knowledge of its propriety and expediency. He wished the right hon. gentleman not to regard him as hostile on the present occasion. He knew it was so usual for the House to see the right hon. gentleman and himself acting in an hostile point of view towards each other, that it was difficult to consider them in any other light; but, what he now suggested, he suggested on grounds of general convenience, devoid of any party consideration whatever. If the right hon. gentleman did not feel the proposition that he had made as he did, he could only lament that he did not. He did hope, however, that the right hon. gentleman would not think it unfit to give the House some general outline of what he meant to state to the Committee on Tuesday, that gentlemen might not be puzzled with the novelty of the proposition, and embarrassed how to vote. He was inclined to hope, that, as to essential points the difference between the right hon. gentleman and himself was extremely minute; an advantage, therefore, would result from a communication of the intended proposition; the opinions of weighty men upon it might be ascertained, and thence it might be seen whether arrangements might not be made to reconcile difference on small points, in order that the question, whatever it might be, might be carried with unanimity. What some conceived a right in the Prince of Wales, others might deem at the disposal of the two Houses of parliament; but that was a difference of opinion of no material import to the main consideration of the act they were to do, and which they must proceed to do in some shape or other. When the thing itself was decided, it would remain to determine by what mode to notify it. He conceived there could be but two regular methods; one by a declaration, the other by an address, or perhaps both conjointly by the two Houses. He knew not whether the right hon. gentleman was willing to communicate the outline of what he meant to state to the committee next Tuesday; but he had no difficulty to declare unreservedly what his own opinion was upon the subject. His opinion was that the Prince of Wales ought to be declared regent, and capable of exercising all the regal powers, in the same manner and to the same extent, as

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they would have been exercised by his Majesty, had his health enabled him to discharge the functions of the sovereign authority. That was his opinion, and the House would see it was a plain, simple, intelligible proposition. If the right hon. gentleman's proposition came near his, something ought to be sacrificed to unanimity; and he should be ready to give up, on his part, in proportion as the right hon. gentleman would express the same willingness to accommodate. Though it was abundantly more desirable to carry a question of such infinite magnitude, by the unanimous consent of the House, than by a majority; yet, if the right hon. gentleman's opinion differed widely from his own —so widely, that there was no chance of reconciling the one to the other — he should be reduced to the necessity of dividing the Committee upon it. He declared he should be willing to sacrifice much for the purpose of giving occasion to unanimity, because, he thought it above all things, desirable. In the great point, there could be no difference of opinion. They must all agree that it was in the first instance, their business to set up something for the regal power; and who would they set up, but the Prince of Wales, who certainly had the first interest in the welfare of the kingdom, his Majesty alone excepted? He urged the right of the prince as an abstract point, and as such, the stating it was, in his opinion, a powerful argument. But what signified differences upon abstract points, where the substance was indisputable? The field was wide, and his object then, as it had been in the debate of Wednesday, was to lead the mind to that point upon which gentlemen ought to look. "De qua re agitur" was the matter he wished to ascertain, and with that view, he had called upon the right hon. gentleman to state the outline of the proposition with which he meant to come forward on the ensuing Tuesday. All he wished was, that the House might know what they were to expect, and not come altogether unprepared to meet it, when the proposition should be regularly made. In the beginning of his speech, he had endeavoured to explain a matter, respecting which he had been misrepresented in another place. He hoped he had done it satisfactorily; but if any gentleman entertained a doubt upon any part of what he had said, he should be happy to answer any question on that subject, and to give the fullest explanation in his power.

Mr. *Pitt* begged leave to remind the House, that they had just received a voluminous report from the Committee, appointed to search for precedents, in order that gentlemen might have every information before them, to guide their proceedings, under the present arduous and singular situation of the country, that the wisdom of their ancestors, the statutes of the realm, and the records of parliament, could afford; and he had moved to refer that report, together with the examination of his Majesty's physicians, to the Committee of the whole House, who were to take the state of the nation into their consideration upon the ensuing Tuesday. In that Committee, the topics touched on by the right hon. gentleman would necessarily undergo an ample discussion. In the last debate on the subject, there appeared to be a point at issue between the right hon. gentleman and himself; and from all that the right hon. gentleman had then said, it still appeared to be no less at issue than before. The right hon. gentleman had explained, as he thought proper, the meaning of a very essential part of his speech, on the preceding Wednesday. Mr. Pitt said he should be sorry to fix on any gentleman a meaning, which he afterwards declared not to have been his meaning. In whatever way, therefore, he had before understood the right hon. gentleman's words relative to the prince's forbearing to assert his claim, he was willing to take the matter from the right hon. gentleman's present explanation, and to meet it upon those grounds on which he had then, after maturer deliberation, thought fit to place it. The right hon. gentleman now asserted, that the Prince of Wales had a right to exercise the royal authority, under the present circumstances of the country, but that it was as a right not in possession, until the prince could exercise it on, what the right hon. gentleman called, the adjudication of parliament. Now he, on his part, denied that the Prince of Wales had any right whatever, and upon that point the right hon. gentleman and he were still at issue; an issue that, in his opinion, must be decided, before they proceeded one step farther in the great and important considerations to be discussed and determined. Concerning one part of the right hon. gentleman's speech, it was impossible for him to remain silent, as the right hon. gentleman's ideas in that point had not appeared to him to be quite accurate and distinct. He seemed to have intended to have re-

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nounced all idea of the Prince of Wales's right to assume the exercise of the royal authority, under the present or similar circumstances, without the previous adjudication of parliament or of the two Houses; but, if he understood the right hon. gentleman correctly, he had used the words, "during the sitting of parliament;" the plain inference from which expression was, that if parliament were not sitting, the Prince of Wales could assume the exercise of the regal authority. Mr. Pitt declared, that he thought the Prince of Wales could, in no one case, have power to assume the right. If there were no parliament in existence, he granted, that the heir apparent, acting in concert with other persons in great situations, might, under such circumstances as the present, have issued writs, and convened the two Houses, for the purpose of providing for the exigency. Such a proceeding would be justified by the necessity of the case, and with a view to the safety of the nation, which superseded all forms; but, that it would be a legal and formal summons of the parliament, or that a parliament could be called together, without legal authority, he must absolutely deny. Such a meeting would be a convention, like to that assembled at the time of the abdication of James 2, and in other periods of difficulty; but it could not be a legal and formal calling together of a parliament. With regard to the question of the Prince of Wales's right of assuming the power, during the intermission of parliament, and his right not in possession, as it was called, during the sitting of parliament, he need not rest much upon the distinction, denying, as he did, that any right to assume the regal authority, under any circumstances, independent of the consent and approbation of parliament, existed in the Prince of Wales. But, supposing the right of assumption of royalty given up altogether, and that the prince must have the right adjudged by parliament, he denied that they were canvassing a right, and acting as judges, as the sentiments of the right hon. gentleman so manifestly intimated. It was subversive of the principles of the constitution to admit, that the Prince of Wales might seat himself on the throne during the lifetime of his father; and the intimation of the existence of such a right, as he had remarked on a former occasion, presented a question of greater magnitude and importance even than the present exigency, and the provision that it necessarily required; a question that involved in it the principles of the constitution, the protection and security of our liberties, and the safety of the state.—Whatever, therefore, might be the order of their proceeding, he hoped there would be an unanimous concurrence of opinion, that it was impossible to let the question of right, which had been started, undergo admission, without its being fully discussed and decided. It was a question that shook the foundation of the constitution, and upon the decision of which, all that was dear to us, as Britons, depended. In his opinion, therefore, it was their first duty to decide, whether there were any right in the Prince of Wales to claim the exercise of the regal power, under any circumstances of the country, independent of the actual demise of the crown. In the discussion of the powers with which the regent was to be invested, there might be differences of opinion, whether the whole of the royal prerogatives should be delegated, on the grounds of expediency; there might be differences of opinion, whether a portion only of the royal authority should be delegated, and a part reserved, on the grounds of prudence and discretion. These were important topics, which they could not discuss, unless they first knew, whether they were sitting as judges, or as a house of parliament, possessing a power of deliberation, and capable of exercising a constitutional discretion. They must first ascertain, whether that which should be vested in the hands of the Prince of Wales, was matter of adjudication on their part, of right in his royal highness, or as a trust in behalf and in the name of his Majesty; and therefore, he should think it his duty to bring forward the question of right, as a preliminary question. If that question should be decided in the affirmative, there would be no need of specific measures. Should it, however, be determined upon a contrary ground, the way would become cleared, and the House would know how to proceed. He had, indeed, mentioned the alternative, but, Heaven forbid, that the fatal alternative should be decided in favour of the intimated right of the Prince of Wales!—Mr. Pitt next took notice of the call which Mr. Fox had made upon him, relative to the future propositions to be brought forward by him in the Committee which had been moved for, to take into consideration the state of the nation. He said, that, if the question of

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right should be decided, as he thought it would, upon constitutional principles, he should, in that case, certainly proceed to propose measures for providing for the interruption of the royal authority, occasioned by his Majesty's present incapacity to exercise it; and, as he was always happy when he could concur with the requisition of the right hon. gentleman, he would state the outline, without feeling any prejudice to the person who had called for it; but, he begged to have it understood, that what he was about to state was not to be a matter of debate at that moment, nor were any arguments then to be raised upon it. He proceeded to declare that, however decided he might be in his opinion against the whole, or any part of the regal power being vested in the Prince of Wales, as a matter of right, in any way in which that right had been explained, he was equally ready to say, that, as a matter of discretion, and on the ground of expediency, it was, in his opinion, highly desirable, that whatever part of the regal power it was necessary should be exercised at all, during this unhappy interval, should be vested in a single person, and that this person should be the Prince of Wales: that he also thought it most consistent with true constitutional principles, and most for the public convenience, that his royal highness should exercise that portion of authority, whatever it might be, unfettered by any permanent counsel, and with the free choice of his political servants. With regard to the portion of royal authority which ought to be given, or that which ought to be withholden, it would be premature, in this stage, to enter into the particular discussion of it: he had no objection, however, even now, to declare in general, that whatever authority was necessary for carrying on the public business with vigour and dispatch, and for providing, during this interval, for the safety and interests of the country, ought to be given: but, on the other hand, any authority, not necessary for those purposes, and capable of being, by possibility, employed in any way which might tend to embarrass the exercise of the king's lawful authority, when he should be enabled to resume it into his own hands, ought to be withholden; because from its being given, more inconvenience might arise to the future interests both of the people and of the crown, than any which could arise, in the mean time, frow its temporary suspension.—Mr. Pitt added, that he could justify the principles of this explicit declaration of his intention, on the ground, that, whatever was given to the regent, or withholden, ought to be given, or withholden with a veiw to the moment when his Majesty should be capable of resuming his rightful prerogatives; a circumstance to which it peculiarly became him to look, in the situation in which he stood, honoured with the confidence of a sovereign to whom he was bound, and strongly attached, by the ties of gratitude and duty; —but of that he would say no more. Whatever judgment might be formed of what he had declared, he was conscious of having given a free and an honest opinion, and was satisfied with that consciousness. He conceived it could not be thought necessary for him to go any farther into the subject, as the adjustment of the whole proceeding must rest with the Committee on the state of the nation, where it would be necessary to come forward with the different propositions separately, and to proceed, step by step, to mark and define, by distinct resolutions, what parts of the royal prerogative should be given to the regent, and what withheld.

Mr. *Fox* answered, that he was ready to admit that the right hon. gentleman had nearly stated every point which he had desired, and, indeed, full as much as he either did, or had any right to expect from him, and that with great candour. The right hon. gentleman had taken a distinction between the right of the Prince of Wales while parliament was sitting, and his right while parliament was not sitting, and had asked, what would have been the Prince's conduct under the latter circumstance? In that case, Mr. Fox said, he supposed the Prince would have done what the right hon. gentleman had stated might have been done; he would have convened the two Houses of Parliament, and referred to that convention the consideration of the state of the nation, and expected when they declared the incapacity of the King, that they would have also declared his right to the regency. Some words had slipped into the right hon. gentleman's speech which seemed to insinuate, that he had put the regency in a point of view very different from that in which he had placed it. The right hon. gentleman had remarked that the House was to decide whether it was a right or a trust. When he (Mr. Fox) had stated that the Prince of Wales had a right to exercise the royal authority, he most un-

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doubtedly meant a right to exercise it as a trust from the people, which parliament might resume, alter and modify, just as it thought proper. If that trust were abused essentially, the people of England might resume it without the parliament, as had been done in the case of the Revolution. The regency was a trust, on behalf of the people, for which the Prince was responsible, in like manner as his Majesty and every monarch that ever sat upon the throne, were responsible for the due execution of their high office. Sovereignty was a trust depending on the natural liberties of mankind. But, his notions on revolution doctrines had been so often stated, and were, he conceived, so well known in that House, that he scarcely supposed it would be imputed to him, that he meant to deny that the regency was a trust; far from it: he had upon that ground urged the Prince's right to be hereditary, conceiving an hereditary succession the best security to the people for the due discharge and faithful execution of the important trust vested by them in their governors. Mr. Fox took notice of the abstract question of right, which the right hon. gentleman had declared he would bring forward in the Committee on the State of the Nation; and added, that until he saw the words of the proposition, it was impossible for him to speak to it. It might be a proposition, which the Committee would affirm; it might be a proposition which the Committee would neither affirm nor deny, but wave the consideration of. With regard to the steps which the right hon. gentleman had said he would take in the Committee, there might be objections offered to his intended mode of proceeding, and he would state what those objections were, without arguing upon any of them. The right hon. gentleman had said, to whom the powers of the royal authority should be entrusted; and after having resolved that, he had declared that only a portion of those powers should be given. A question might arise between those two steps; upon a debate whether there should be a portion or the whole of the royal authority vested in the Regent. Mr. Fox considered this in two different points of view, as a question of right, and as a question of expediency. He doubted whether the plan of proceeding step by step could legally be pursued; and whether, allowing for the moment, that the Prince of Wales had no right, the two Houses of Parliament could propose an act of legislation. He doubted, also, whether they must not necessarily, in the first instance, set up something for a king, to give his consent to the proposed defalcation of royal authority, whatever it might be. Restoring the royal authority, seemed to him to be clearly the first step that must be taken, and he conceived that the two Houses could not bargain with the Regent beforehand for the diminution of regal power. He professed that he saw no sort of necessity for coming to a division on an abstract proposition, when they had measures of so much solidity to take; where the portion of power that must be withheld was so little, the stating an abstract proposition was, in his mind, useless; he thought it, therefore, much better to wave it, and for both Houses to convince men by their acts, and not by abstract resolutions. The right hon. gentleman's intentions, he observed, were plain and manifest; and he had, on his part, expressly stated his opinion on the subject, which was, to invest his Royal Highness with the whole, not a portion, of the royal powers. Both sides of the House were therefore sufficiently understood, and the question consequently would be, whether it was expedient to make the Prince of Wales Regent, or a Parliamentary Regent, and thus give a situation and create a power, hitherto unknown to our constitution, by placing a person in the situation of the King without regal powers.

Mr. *Sheridan* said, he rose merely to prevent any conclusion being drawn from his silence that he concurred in the propriety or expediency of putting the abstract proposition on the right of the Prince of Wales. He, for one, felt it his duty to contend against the discussion of any such proposition, declaring that it was neither likely to tend to the promotion of the good or the peace of the public. It could not conciliate; it might create dissentions and animosities; and therefore it would be extremely unwise, as it was obviously unnecessary, to agitate it or press the House to come to any vote upon it. He begged leave to remind the right hon. gentleman of the danger of provoking that claim to be asserted which had not yet been preferred. [Hear, hear!] He repeated his words, and asked, would the right hon. gentleman choose to have his own proposition put upon the Journals, to have it recorded as his opinion, that the Prince of Wales had no

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more right to exercise the royal authority during the incapacity of the King, than any other individual subject? If he would not, why would he press an abstract proposition that must throw the nation into anarchy and confusion? Mr. Sheridan said, he felt so absolute a conviction that the discussion of the question was mischievous, that he was sure no man who was not actuated by a spirit of dissention, would propose it.

Mr. *Pitt* could not avoid animadverting upon the manner in which the hon. gentleman had thought proper to treat what had fallen from him. The hon. gentleman had chosen rather indiscreetly, and with a degree of warmth altogether uncalled for, to enter into a discussion of the propriety of bringing forward a proposition not then before the House, but which would come regularly under discussion upon a future day. It was evident that there were but two opinions on the question that had been hitherto agitated, touching the present exigency, in consequence of his Majesty's incapacity to exercise the royal authority; the one, that they were to deliberate on one of the most interesting points that ever came before a House of Parliament; the other, that they were to proceed to an adjudication of one of the most important rights that ever was claimed. In the discussion of these opinions, the House, he trusted, would do their duty in spite of any threat, however high the authority from which it might proceed.

Lord *Frederick Campbell* said, the hon. gentleman had thrown out imputations which hurt his feelings exceedingly. He did not understand that any member had a right to impute bad intentions to another. As to his own, he could venture to declare that they were pure and honourable. With regard to the question of right, the question must necessarily be discussed before any other. He had, the other day, heard it doubted, whether they were a parliament or a convention. It had even been asked, whether the Speaker had a right to issue writs, and other offensive expressions had been used which he did not recollect. He wanted to know whether he had a right to debate, and there was no other way of putting it out of doubt, whether they were a parliament or not, but by coming to a decision of the question of right.

Mr. *Fox* said, it was a pity the noble lord could not recollect what he had complained of as offensive expressions. With regard to the doubt whether the Speaker could issue writs, the Speaker would recollect it originated with himself and not with him. As to the noble lord's declaration that his motives were pure and honourable, he had no doubt but they were. He had always had the good fortune to have the noble lord with him when he was in office, but never had that good fortune when out of his Majesty's service.

The question was then put and agreed to; and the several Reports were ordered to be referred to the said Committee.

Dec. 1. The House, conformably to the order of the day, having resolved itself into a Committee of the whole House, to take into consideration the State of the Nation, Mr. Brook Watson in the chair,

Mr. *Pitt* rose and, having premised that the House were then in a Committee to take into consideration the State of the Nation, under circumstances the most calamitous which had befallen the country at any period, remarked, that it was then a century ago since any point of equal importance had engaged the attention of that House. The circumstance that had then occurred was the Revolution; between which, however, and the present circumstance, there was a great and essential difference. At that time, the two Houses had to provide for the filling up a throne, that was vacant by the abdication of James the 2nd; at present, they had to provide for the exercise of the royal authority, when his Majesty's political capacity was whole and entire, and the throne consequently full, although, in fact, all the various functions of the executive government were suspended, but which suspension they had every reason to expect would be but temporary. There could, he said, be but one sentiment upon that head, which was, that the most sanguine of his Majesty's physicians could not effect a cure more speedily than it was the anxious wish of every man in that House, and every description of his Majesty's subjects, that his cure might be effected, and that he might thence be enabled again to resume the exercise of his own authority. During the temporary continuance, however, of his Majesty's malady, it was their indispensable duty to provide for the deficiency in the legislature, in order that a due regard might be had to the safety of the crown, and to the interests of the

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people. The first report before the Committee established the melancholy fact that had rendered their deliberations necessary; the second contained a collection of such precedents, selected from the history of former times, as were in any degree analogous to the present unfortunate situation of the country; and, although he would not undertake to say that still more precedents might not have been found, yet, such as the report contained would serve to throw a considerable degree of light on the subject, and point out to the House the mode of proceeding most proper to be adopted.

Notwithstanding the magnitude of the question, what provision ought to be made for supplying the deficiency? there was a question of a greater and still more important nature, which must be discussed and decided first, as a preliminary to their future transactions, with a view to the present exigency. The question to which he alluded was, whether any person had a right, either to assume or to claim the exercise of the royal authority, during the incapacity and infirmity of the sovereign; or, whether it was the right of the Lords and Commons of England to provide for the deficiency in the legislature, resulting from such incapacity? On a former day, he had stated, that, in consequence of an assertion having been made in that House, that a right attached to his royal highness the Prince of Wales, as heir apparent, to exercise sovereign authority, as soon as the two Houses of Parliament declared his Majesty, from illness and indisposition, incapable of exercising his royal functions, it appeared to him to be absolutely and indispensably necessary, that the question of right should be first decided by the Committee, before they took a single step to provide for the deficiency of the third estate of the realm. By the assertion of the existence of such a right, no matter whether a right that could be assumed in the first instance, or a right which attached, after the declaration of both Houses of Parliament, that his Majesty was incapable, a doubt had been thrown upon the existence of what he had ever considered as the most sacred and important rights of the two Houses; and it became absolutely necessary for them to decide that doubt, and, by such decision, ascertain whether they had a power to deliberate, or whether they had only to adjudge, that such a right as had been mentioned was legally vested in his royal highness the Prince of Wales. The most embarrassing difficulties had, indeed, been thrown upon their proceedings, by the assertion, that such a claim existed; and although he was free to confess, that the assertion had not been made from any authority, and that they had since heard, though not in that House, that it was not intended that the claim should be made, yet, having been once stated by a very respectable member of that House as his opinion, it was an opinion of too much importance to be passed by unnoticed. He would intreat the House to remember, however, that he had not stirred the question of right originally. If, therefore, any serious danger were actually to be dreaded, by its being discussed and decided, that danger and its consequences were solely imputable to the first agitator of the question, and not to him. Had the doubt never been raised, an express declaration on the subject had not been necessary; but, as the matter stood, such declaration must be made one way or the other. He begged, however, that it might not be imputed to him, that he was desirous of wasting time in bringing forward any abstract, or speculative, or theoretical question. An abstract question, in his conception of it, was a question wholly unnecessary, the discussion of which could answer no end, nor could its decision afford any light to guide and assist them in their proceedings. Of a very different nature was the question of right; it was a question that stood in the way of all subsequent proceeding, the resolving of which must necessarily decide the whole of their conduct, with regard to the present important business; they were not free to deliberate and determine, while the doubt of an existing right or claim hung over their heads; they could not speak intelligibly, or to any purpose, until they knew their proper characters, and whether they were exercising their own rights for the safety of the crown, and the interests of the people, or whether they were usurping that which had never belonged to them. On that ground it was, that he had declared the question of right not to be an abstract question, a speculative question, or a theoretical question.

The first information which the papers that had been referred to the Committee afforded, was that which he should make the first resolution. It was a resolution of fact, as the ground of those that were designed by him to follow it; a resolution,

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stating that of which the language of all his Majesty's physicians afforded sufficient proof, that his Majesty was incapable, from illness, of coming to his parliament, or attending to any public business, whence arose the interruption of the exercise of the royal authority. To that resolution of fact, he conceived there could not be any objection. His next resolution would be the resolution of right, couched in part in the words of the Bill of Rights, and stating, "That it was the right and duty of the lords spiritual and temporal, and of the House of Commons, as the rightful representatives of all the estates of the people of England, to provide for the deficiency in the legislature, by the interruption of the exercise of the royal authority, in consequence of his Majesty's incapacity through indisposition."

Here Mr. Pitt renewed his arguments in support of the claim of the two Houses of parliament, declaring that, under the present circumstances of the country, it was his firm and unalterable opinion, that it was the absolute and undeniable right of the two Houses, on the part of the people, to provide for the revival of the third estate. He declared, he would state the point at issue between him and the right hon. gentleman opposite (Mr. Fox) fairly. He wished not to take any advantage of any shades of difference between them, but to argue upon the solid and substantial difference of their opinions. If he had conceived the right hon. gentleman properly, he had asserted that, in his opinion, the Prince of Wales, as heir apparent, upon the incapacity of the sovereign to exercise the sovereign authority being declared, had as clear, as perfect, and as indisputable a right, to take upon himself the full exercise of all the authorities and prerogatives of his father, as if his Majesty had undergone an actual demise. If it could be proved to exist by any precedents drawn from history, or founded in law, or by the analogy of the constitution, he wished to have been told what those precedents were, because in that case the ground would be narrowed, and the proceedings of the Committee rendered short and simple, as they would have no power nor occasion to deliberate; the only step they could take would be to recognise the claim of right. That claim of right, however, he flatly denied to have any existence capable of being sustained by such proof as he had mentioned. The right of providing for the deficiency of the royal authority, he contended, rested with the two remaining branches of the legislature. He professed himself exceedingly happy to hear that a declaration had been made in another place, from high authority, that the right stated by the right hon. gentleman in that House, to have existence, was not meant to be urged by a great personage. He came that day, confirmed in every opinion which he had before stated; and particularly confirmed in the opinion that no such right or claim in the Prince of Wales, as heir apparent, to exercise the royal authority during the incapacity of the sovereign, could be proved, either from precedents drawn from history, or from the law, or from the spirit of the constitution.

He begged leave to remind the Committee, that when the right hon. gentleman first mentioned the right of the Prince of Wales in this particular, the right hon. gentleman had declared he was willing to wave the motion for a committee to search for precedents, because that he was persuaded, and the House must allow, that no precedent could be found that bore upon the particular case, of a Prince of Wales, the heir apparent to the Crown, being of full age, and capable of taking on himself the exercise of the royal authority, under such circumstances as the present. There certainly was no case precisely in point; but though the Committee above stairs could not find a case precisely in point, they had furnished the House with many precedents, from which analogies might be drawn. He called upon the right hon. gentleman opposite to him, to point out a single case analogous to the infancy, infirmity, or illness of a sovereign, in which the full powers of sovereignty were exercised by any one person whatever. If the right attached to his royal highness, under the present circumstances, in the same manner as on the demise of his father, an heir presumptive would succeed as perfectly as an heir apparent, and in pursuance of that doctrine, those precedents that would attach in the one case, would attach in the other. For precedents that were analogous, he would refer the Committee to the report on the table; the precedents in which, though they might not throw all the light on the subject that could be wished, certainly tended to elucidate it considerably. He would refer to some of the precedents, and convince gentlemen, that their result

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formed the most undeniable proof, that no such a right existed as had been pretended.

The first precedent was taken from the reign of Edward 3, when no heir apparent had claimed the exercise of the royal authority. The parliament of those days, whether wisely or not, was no question before the Committee, provided a council about the king's person to act for him; a clear proof, that they conceived the power existed with them to provide for the exercise of the royal authority. The next precedent was in the reign of Richard 2, when counsellors were also appointed to exercise the regal power. The third precedent occurred in the infancy of Henry 6 At that time the parliament were called together by the young king's second uncle, the first being still living, but out of the kingdom; and that Act was ratified by parliament, they not considering it sufficient that it was done by the authority of the duke. In that instance, again, it was clear, that the regency was carried on by the parliament. These three instances were the principal of those stated in the report of the Committee; subsequent precedents would prove, that no one instance could be found of any person's having exercised the royal authority, during the infancy of a king, but by the grant of the two Houses of Parliament, excepting only where a previous provision had been made. Having thus far mentioned the power of parliament, during the infancy of a king, he observed, that he would next state their power during the king's absence; and if, in that case, it should be asserted, that the heir apparent had a right to exercise the royal authority, let the Committee consider how the assertion would stand.

It had been advanced, that, in the majority of such cases, the power had been given to the Prince of Wales. If such cases could be adduced, they would, he owned, be cases in point; but then to prove what? To prove, that such heirs apparent possessed no inherent right. If a right existed to represent the king, it must be a perfect, and an entire right a right admitting of no modification whatever; because if any thing short of the whole power were given, it would be less than by right could be claimed, and consequently an acknowledgment that no such right existed. But, could any such cases be pointed out? By a reference to the ancient records, it would be found, that the "custos regni," or "lieutenant for the king," had never been invested with the whole rights of the king himself. The powers given to the "custos regni" had been different, under different circumstances; a plain and manifest inference then arose that the "custodes regni" did not hold their situation as a right, but by appointment. The powers of bestowing benefices, and doing other acts of sovereignty, had been occasionally given to the "custodes regni," which showed that their powers had been always subject to some limitation or other. In modern times, lord-justices had been frequently appointed to the exercise of sovereign authority, during the residence of a prince of age in the country. Another instance that occurred to him was, where the exercise of royalty had been interrupted by severe illness, and which appeared to him to be more a case in point than any other, to the present melancholy moment. The example to which he alluded was, the precedent of Henry 6; where the heir apparent was not of full age. It would, then, to supply the defect of that precedent, be necessary to have recourse to the principles of the constitution, and to the laws of the land; and upon this ground, it would be discovered, that the parliament of that day provided for the moment; that they were not content with such provision, but that they looked forward to the time when the heir apparent should attain full age, granting him a revisionary patent, the same precisely with the regent's, to take place when he should come of age. Thus, though they provided for allowing him at that period more considerable powers than they had suffered him before to possess, they had still not granted him the full powers of sovereignty, but had made such limitations, as proved their most positive denial of any right existing. That instance, though a single one, and where the heir apparent was not of full age, was sufficient to show the sense of parliament in those days, as much as if the heir apparent had been of full age.

If no precedent contrary to those which he had stated to the Committee could be advanced, he should presume, that the Committee would, of course, admit that no right existed with an heir apparent or an heir presumptive, to assume the functions of royalty on the temporary incapacity of the sovereign; nor any rights but those delegated by the two remaining branches of the legislature. He scrupled not therefore to

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declare, that no positive law, nor the least analogy from any law, could be adduced to support the doctrine of right. A record had, indeed, been quoted elsewhere [the House of Lords] to prove that the King and the heir apparent were one and the same person, and that it followed of course, that, on the incapacity of the King, the heir apparent had a legal and clear right immediately to exercise the same powers that the King had possessed: but, a different opinion was entertained of that record by persons of great eminence and authority in the law, and by their opinion a far different conclusion was drawn from the same record, the metaphorical expression of which was not to be taken literally. Another opinion which had been started, was, that if parliament had not been sitting, in such a case the prince would have a right to assume the royal authority, and summon parliament. But this position he should expressly contradict; because those who were, like him, standing up for the rights of parliament, and, through parliament, for the rights of the people, were peculiarly fortunate in one particular; they were as fortunate as most of those, who had truth and justice on their side generally were, because little was left for them to do, except to controvert and overcome their antagonists by stating to them, and comparing their own arguments and assertions, made at different times, and as the occasion suited.

It had been pretty strenuously contended elsewhere by a learned magistrate, (lord Loughborough), who had chosen to force his own construction on their silence, that our ancestors, if they had entertained any doubt of the right of an heir apparent, would, in their wisdom, have provided for so possible a case as the present; and yet instead of leaving the interpretation of this point to that learned lord's wisdom, it must be concluded by the Committee, that they would have provided for it in plain, distinct, clear, and express words, and would not have left it liable to be differently understood. The wisdom of our ancestors, however, he conceived, was better proved by their having said nothing upon it, but left such a question to be decided where it ought to be decided, whenever the occasion required it, by the two Houses of Parliament. That the Committee might assert the same, he meant, in the resolution he should offer, to quote that doctrine from the Bill of Rights, and assert that it rested with the Lords and Commons, as the rightful representatives of the people. If the contrary doctrine was so evident that it must be true; if the heir apparent, or heir presumptive, had a clear right to assume the royal prerogative on the interruption of those powers, he desired to ask every gentleman in the Committee, whether they would wish to adopt such a doctrine as a doctrine applicable to the safety of the crown, which had been long gloriously worn by his Majesty, and which it was the ardent, the sincere wish of his people that he might long continue to wear, until it should, in due time, and in a natural manner, descend to his legal and his illustrious successor? Mr. Pitt here strongly deprecated the idea of avoiding the discussion of what limitations might be necessary for insuring the safety of the crown on the head of its present possessor, on account of the many virtuous qualifications of the Prince, or out of respect to any other motive whatsoever. It would not have been wisdom in our ancestors had they said, that the care of the person of the Sovereign ought to be vested in the heir apparent. He hoped, in this declaration, that he should not be misunderstood, for, he was ready to acknowledge the greatest and best qualities in the present heir apparent; but he would rather, in what he had said, be misrepresented in any manner, and any where, than sacrifice the duty which he owed to the safety of his Sovereign, and to the interests of the people.

The right hon. gentleman opposite to him had said, on a former day, that his Royal Highness had as clear a right to the exercise of the sovereign authority, as he would have had in case of the natural demise of the Sovereign, and that he conceived the present to be a civil death. Could the Committee so consider his Majesty's indisposition, which was not an uncommon case, and generally but temporary; could they conceive that his Majesty had undergone a civil death? He was sure they would not. If such a thing existed at the present moment as a civil death, his Royal Highness would immediately ascend the throne with the full exercise of the royal prerogative, and not as a regent; for a civil death, like a natural death, was permanent. He stated from Mr. Justice Blackstone, that there were but two cases in which a man could undergo a civil death; the first was, his being banished from the realm by process of common

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law; the second, his having entered into a religious order, and becoming a monk professed, thereby taking himself for ever from all secular concerns. The first was an act which cut off a criminal from society within the realm, and the other was the voluntary act of retiring from the world. Would any man pretend, that either of those cases was analogous to the visitation of Heaven, to a stroke inflicted by the hand of Providence, which might, and probably would, prove temporary? Could it be pretended, that they ought to be adduced as acts to prevent his Majesty in future from exercising those powers which he had never forfeited, which he had never renounced?

After having advanced so much in contradiction to the claim of right, he believed no one would think of asserting it. The only question, then, was, and to which what had passed before was but preliminary, where did the right exist? If no provision in precedent, in history, or in law, was to be found, for the exercise of such authority, on the disability of the Sovereign, where was it to be found? It was to be found in the voice, in the sense of the people. With them it rested; and though, in extraordinary cases, in most countries, such an event as the calamity which all deplored, would have gone near to dissolve the constitution itself; yet, in this more happily-tempered form of government, equally participating the advantages, and at the same time avoiding the evils of a democracy, an oligarchy, or an aristocracy, it would have no such effect; for, though the third estate of the legislature might be deficient, yet the organs of speech of the people remained entire in their representatives, by the Houses of Lords and Commons, through which the sense of the people might be taken. The Lords and the Commons represented the whole estates of the people, and with them it rested as a right, a constitutional and legal right, to provide for the deficiency of the third branch of the legislature, whenever a deficiency arose; they were the legal organs of speech for the people; and such he conceived to be the true doctrine of the constitution. He would not merely state these as his own opinions, but he would state them to be the opinions of those who had framed the revolution, who had not, like the Committee, to provide for the interruption of regal powers, while the throne was full, but to supply the deficiency of the third branch of the legislature, which was wholly vacant. Whenever the third branch, however, of the legislature was wholly gone, or but suffered a suspension, it was equally necessary to resort to the organs of the people's speech. Agreeably to the laws of the land, to the records of parliament, to precedent, and to the constitution, the political capacity of the King, except in cases of absolute forfeiture of the crown, was always considered as legally entire; and during that political capacity, according to the spirit of the constitution, if any natural incapacity should cause a suspension of the royal authority, it then rested with the remaining branches of the legislature to supply such defect. In every proceeding of the parliament, in the reign of Henry 6, they had acted upon such a power, and declared in what manner and by whom, the royal authority, was to be exercised for, and in the name of, the King. In that reign, the duke of Gloucester claimed the regency, and applied to parliament for the same as his right; but the answer of parliament to such claim was, that he neither had by birth, nor by the will of his brother, any right whatever to the exercise of the royal authority. They, however, appointed him regent, and entrusted him with the care of the young king. Here was an instance of the claim of right having been actually made, and an instance, likewise, that it had been fully decided upon by the then parliament, who declared, that no such right existed, either from the law of the land, or from precedent. The rights of parliament were congenial with the constitution.

Mr. Pitt refered the Committee to every analogy that could be drawn from the principles of the constitution, and he contended, that the only right would be found to exist in parliament, describing it as a right capable of so effectually providing for the deficiency of the third branch of the legislature, as to enable them to appoint a power to give sanction to their proceedings, in the same manner as if the King was present. As the power of filling the throne rested with the people at the revolution, so, at the present moment, on the same principles of liberty, on the same rights of parliament, did the providing for the deficiency rest with the people. He declared, that he felt himself inadquate to the great task of stating the rights and privileges of the constitution of parliament, but he had made it appear, as plainly as

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he could, that no right existed any where to exercise the whole, or any part, of the royal prerogatives, during the indisposition of the Sovereign. He had also proved, that, from the necessity of the case, it rested with that and the other House of parliament, to provide for the deficiency in the legislature. He supposed that doubts might be stated as to the propriety of coming to any decision on the question, and that he might be charged with having stirred notions dangerous to the state; but such questions, he begged it to be remembered, he had not stirred. When questions concerning the rights of the people, the rights of the parliament, and the interests of the nation, were started, it was necessary, if the House had a right on the subject, to exercise that right; it was their duty; it was a matter that could by no means be lightly given up. If it was their duty, in the present calamitous state of the nation, to grant power, they ought to know how they granted such power. They must decide, either in the manner of a choice, or as acting judicially, to recognize a claim of right; and if they recognized such claim, it would be an acknowledgment that they had no power to deliberate on the subject. If they did not come to some decision, they would confound their own proceedings, and it would be highly dangerous to posterity, in point of precedent. They were not, therefore, to consult their own convenience. He remarked that, originally, the claim of right had been asserted by the right hon. gentleman, in strong and lofty terms, but that the tone had been since somewhat lowered. He declared, he could see no possibillity of the Committee proceeding a single step farther, without knowing on what kind of ground they proceeded; and, therefore, it became indispensably necessary to have the question of right decided. The danger of the question originated in its having been stirred, not in its being decided; the danger of the stirring would be done away by the decision, but leaving it undecided, and equivocal, would be highly dangerous. The decision of both Houses could be attended with no dissention, but, if the right of parliament was not confirmed, the measures of both Houses would be imputed, he feared, rather to motives of personal interest and convenience, than to a due regard for the interests of the country. The measures which he meant to propose were dictated by no other motive than an anxious desire, in conformity to his duty, to provide for the safety of the King, the rights of parliament, and the interests of the people.

Mr. Pitt, previous to the conclusion of his speech, adverted to what he described as the opinions stated by the noble lord (Rawdon) in another place, in contradiction to his assertion, that the Prince of Wales had no more right to assume the regency, than any other individual subject. He said, that he understood, that in arguing that matter, some very extraordinary modes of reasoning had been resorted to. Among other conceived proofs that the rights of the Prince of Wales were different from those of other subjects, it had been contended, that the Prince of Wales was, in an old record, quoted by lord Coke, pronounced one and the same with the King. The fact certainly was so; but to draw from such a circumstance an argument, that the prince had a right to exercise the sovereign authority, under the present circumstances of his Majesty's unfortunate incapacity, was an inference so monstrous, that he should think he deserved censure for sporting with the gravity of the House, if he suffered himself to treat it with the least gravity whatsoever. In truth, a very different conclusion might be drawn from the whole of that record, the metaphorical language of which was not to be taken in a literal sense, in that or any other point of so much importance. Another position, laid down at the same time, and in the same place, was, that the Prince of Wales, as heir apparent, and being of full age, could assume the exercise of the sovereign authority, if his Majesty's infirmity had occurred when parliament was not sitting: but that doctrine had been so expressly contradicted in that House, by the right hon. gentleman opposite to him, when the subject was last agitated, that it was needless for him to say a syllable more relative to its nature. A third argument, urged in support of the prince's right, was, that a Prince of Wales, when he came to the crown, could sue out an execution, as King, in a cause in which he had obtained a judgment as Prince of Wales. But what was there decidedly conclusive in this position? The reason why the Prince of Wales had this advantage over other subjects was obvious. If the son of a peer, who had maintained a suit in the courts in Westminster-hall, and obtained a judgment, succeeded to his father's

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honours before he had sued out an execution, he could not sue out an execution, without previously identifying himself, and satisfying the court that he was the same person who had prosecuted the suit, and obtained the judgment. And why was not the Prince of Wales obliged to do the same? For this plain reason, the courts of Westminster-hall are holden in the name of the King, and therefore, in his own courts, it must be a matter of notoriety, that, on the demise of the Crown, the Prince of Wales had succeeded to it, and become King: but were these arguments multiplied ten times over, what did they prove? Merely that the prince had rights, of some sort or other, peculiar to himself; but did they prove, that he had a right to exercise the sovereign authority, on his father's incapacity, without the consent and declared approbation of the two remaining branches of the legislature? No more than a proof, that a man having an estate in Middlesex, was a proof that he had another in Cornwall, and a third in Yorkshire. In fact, all these arguments put together, regarded and considered with a reference to the point in dispute, whether the Prince of Wales, as heir apparent, had a right to exercise the sovereign authority, during the incapacity of his Majesty, were so irrelevant, so foreign to the question, and so perfectly absurd, that they were not to be relied on as law, even if they came from the mouth of a judge.

With respect to the strong and lofty assertion that had been at first made of the right of the Prince of Wales, as heir apparent, to assume the exercise of the sovereignty, it was sufficient to observe, that this doctrine was retracted. Upon this occasion, he should beg leave to recall the word and say, not retracted, but disavowed. This reminded him of the precedent in the reign of Henry the Sixth, during which the duke of Gloucester quarrelled with the bishop of Winchester, which disagreement rose so high, and was carried so far, that at length the duke brought a criminal charge against the bishop, accusing him of having, in a former reign, advised the Prince of Wales, afterwards Henry 5 to assume the sovereign authority in the life time of his father, Henry 4. Though this charge, if proved, would have been high treason, the bishop desired that it might be referred to the judges, and that its validity might be determined by the strictest investigation. The quarrel, however, was compromised, on grounds of personal convenience, and the charge never came to a legal decision.

Mr. Pitt having endeavoured, by many arguments, to establish the right of the two Houses of Parliament to provide the means of supplying the defect in the case of the King's incapacity to exercise the sovereign authority, expressed his hopes that he should impress the House with a conviction, that if they had a right, they had also a duty;—a duty which neither their allegiance nor their affection to their sovereign would allow them to dispense with. It was their duty at this time, not only unequivocally to declare their right, so that it might remain ascertained, beyond the possibility of all question hereafter, and become secured to posterity, but to proceed without delay, to exercise their right, and provide the means of supplying the defect of the personal exercise of the royal authority, arising from his Majesty's indisposition. Upon no account did it appear probable, that their decision could either occasion a dissention between the two Houses of Parliament, or produce mischievous consequences of any kind whatsoever. On the contrary, if the right were not declared, as well as decided, it would appear that the two Houses had made a compromise, unbecoming themselves, and had acted upon personal motives, rather than a due regard to the true interests of their country. Mr. Pitt then read his resolutions as follow:

1. "That it appears to this Committee, That his Majesty is prevented, by his present indisposition, from coming to his parliament, and from attending to public business; and that the personal exercise of the royal authority by his Majesty is thereby, for the present, interrupted.

2. "That it is the opinion of this Committee, That it is the right and duty of the Lords spiritual and temporal and Commons of Great Britain, now assembled, and lawfully, fully and freely representing all the estates of the people of this realm, to provide the means of supplying the defect of the personal exercise of the royal authority, arising from his Majesty's said indisposition, in such manner as the exigency of the case may appear to require."

Resolved, "That it is the opinion of this Committee, that for this purpose, and for maintaining entire the constitutional authority of the King, it is necessary, that the said Lords spiritual and temporal, and

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Commons of Great Britain, should determine on the means whereby the royal assent may be given in parliament to such bills as may be passed by the two Houses of Parliament, respecting the exercise of the powers and authorities of the Crown, in the name, and on the behalf of the King, during the continuance of his Majesty's present indisposition."

The first resolution being put, was agreed to. On the second resolution being put,

The *Master of the Rolls* said, that till within the last ten days, he never had heard of there existing any right in the Prince of Wales, whether assumed or attached, upon the declaration of the two Houses of Parliament of the temporary incapacity of the Sovereign, to exercise the royal authority during such incapacity. Having quoted a variety of legal authorities, to prove the reverse to be the fact, he called upon the gentlemen of his own profession, to point out the statute or the law book that contained any recognition of the existence of such a right, and contended, that he could, with ease, refer to several statutes and law books, likely to have noticed it, if any such right had existed; but they were all of them completely silent on the subject. As to what had fallen from a learned lord (Loughborough) in another place, respecting the Prince of Wales and his Majesty being deemed one and the same person, in a particular record, he should think it sufficient to answer, that he had read the record, and that its sense was metaphorical. He next considered the precedent in the reign of Henry 6, and alluded to its pointed analogous reference to the present case. He had no doubt whatever, but that it was the constitutional right of both Houses to provide for the interruption of the royal authority, during the continuance of his Majesty's illness; and thought the best way to testify a proper respect for his Royal Highness, would be by deciding in favour of the rights of parliament, on the preservation of which the welfare of the Crown and the interests of the people so essentially depended.

Mr. *Loveden* was anxious, that the House should meet the motion with their fullest concurrence. He must, however, beg leave to ask the Chancellor of the Exchequer two questions; the one, whether by these resolutions, he meant to preclude the Prince of Wales from being sole regnt? the other, whether by the words towards the end of the right hon. gentleman's speech, relative to motives of private interest or convenience, the Committee were to understand, that such gentlemen as might not vote for the resolution, would have their votes imputed to private interest and private convenience?

Mr. *Pitt* answered, that with regard to the first question, he had on the preceding Friday fully intimated his individual sentiments on the subject, and had declared, that it was, in his opinion, highly desirable, that whatever part of the legal power it was necessary should be exercised at all, during this unhappy interval, should be vested in a single person, and that person the Prince of Wales. The present resolution was only calculated to declare the right of the House, in concurrence with the House of Lords to appoint a regent, and to leave it open for them to determine in a subsequent stage who the regent should be. With respect to the other question, he should be heartily ashamed if he could have been guilty of so much rudeness to that Committee, or to any individual members whatsoever. In mentioning the construction which the world might possibly put upon their conduct at that moment, he had remarked, that if when the essential constitutional rights of the two Houses were questioned, they refused to vote resolutions that would decide upon them, and insure them to their posterity, they would render themselves liable to have their conduct imputed rather to motives of personal interest and personal convenience, than to a due regard to the honour and safety of the Crown, as well as to the preservation of their own clear and invaluable constitutional rights.

Mr. *Bastard* intreated ministers, before they pressed the Committee to come to a vote on the question, to consider the consequences which it might possibly produce. He was anxiously desirous that there should be unanimity, in the progress of so important a business, between the two Houses of Parliament. Should the Lords decide differently from the Commons, such consequences might arise, as he could not reflect on without horror. What possible advantage could result from pressing the Resolution in its present form? He had heard of a declaration in another place from high authority [the Duke of York], that the Prince of Wales had put in no claim of right on his part, and that he felt too much regard for

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those sacred principles which had seated the Brunswick family on the throne, ever to assume any power, be his claim what it might, not derived from the will of the people, expressed by the House of Peers and the representatives of the people in parliament assembled. Why, then, should a resolution be pressed, where an assurance had been given, that no claim would be made? Mr. Bastard advised the leaving out the word "right," and confining the Resolution to the words, "that it was their duty to provide," which would answer the same end, and avoid the risk of provoking a disagreement between the two Houses. He believed the Chancellor of the Exchequer stood higher in the esteem of the people than the right hon. gentleman (Mr. Fox); and therefore, eagerly did he hope, that a regard to his own credit, and the favour in which he stood with the public, would induce him to alter his motion, and prevent the possibility of provoking that danger which he had described in the early part of his speech.

Lord *North* agreed with the hon. gentleman, that, to decide the question, might lead to consequences, which it ought to be the study of the House to avoid. It appeared to him to be a dangerous and pernicious question. The Chancellor of the Exchequer had remarked, that he was afraid, unless the Committee decided on that question, and that in the way that he thought right, the country would conceive they had been actuated by personal motives. It did not strike him, that by agreeing with the right hon. gentleman and voting that question, they would appear to have acted with greater impartiality than if they did not vote it. Their much beloved Sovereign was at present in a melancholy state of health, and they all hoped, that, by the blessing of Heaven, he would recover; but, after the fact was established of his incapacity to exercise his royal authority, they ought immediately to proceed to restore the third branch of the legislature, and the sooner they did that necessary act of duty, the less would their proceedings be liable to the imputation of being actuated by personal motives. The two Houses were the true and lawful representatives of all the estates of the people. But, he begged the Committee to consider, that, in consequence of that melancholy misfortune which they all deplored, they were sitting, not indeed in the form of a convention (because it happened that the two Houses had been regularly called together) but with not a whit more authority than a convention possessed, to do that duty which the calamity of the moment called upon them to perform. Under such circumstances, sitting there in a maimed and imperfect legislature, they ought to confine themselves strictly to the necessity of the case, since every step they proceeded beyond that necessity, was a step in error, and a step which they ought not to take. Every step they had hitherto taken had been strictly justified by the necessity of the case. Without the third branch of the legislature, they had no power; and therefore they ought immediately to proceed to fill the vacancy that unfortunately existed, and not enter into a discussion of abstract questions, which tended only to dissention. What good could arise from deciding the present question? And if no good was likely to result from it, he hoped the Committee would go along with him in preventing the mischief, and proceed immediately to the only business before them, the filling up the third branch of the legislature. He said, he would give his vote for filling up the deficiency, without saying what the rights of the two Houses were, or what they were not. An express declaration had been made elsewhere, that it never was the intention to urge the claim: where, then, existed the danger to the rights of Parliament when no plea was offered in bar? He supposed, however, that the question was only introduced to be over-ruled, and that, as they agreed as to the two great essential points, the right hon. gentleman was determined they should not proceed from the first to that which truly ought to be second, without some altercation by the way. If there had been any question, as to who ought to be entrusted with the regency, the question of right might have been with some plausibility brought forward. Being unanimous upon the principle, why should they fall out about the forms? They ought to go straight to their object, concerning which they were all agreed. The motion called upon them to declare the rights and duties of the Lords spiritual and temporal. What right had that House to interfere with the rights and duties of the other House? In the second part of the question, he saw a project for passing a bill; a project directly violating the fundamental principles of the constitution, and to which, for that reason, he

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could not agree. What right had that House to make laws? To pass a bill, was to do an act of legislation, and to assume into the hands of the two Houses, powers that the constitution had placed in the hands of King, Lords, and Commons, in parliament assembled, and in their hands only. The plain road of proceeding was easy and short. Proceed directly to nominate a regent, and then, when the third branch was restored and the legislature was complete, they would become a parliament, perfect in all its constitutional forms, and might legally pass any laws, either of limitation, restriction, or of any other kind. But, to attempt to proceed otherwise, was to trench on the prerogatives of the crown, while they lay at their mercy. Upon this occasion, however respectable the opinions of his right hon. friend (Mr. Fox) were, it was making him of more importance than he would wish to have annexed to him, to ground a public proceeding of that House on any opinion of his.—Lord North said, that he could neither too earnestly nor too repeatedly contend, that it was the duty of the Committee, to follow the example of their ancestors at the Revolution, and proceed, without discussing speculative and abstract questions, to declare a regent: he said, that no right that belonged to that House had been claimed, and therefore the best mode of establishing their right, would be, by resorting to its immediate exercise. How had those great men thought it their duty to proceed, who settled the Revolution?—to declare a vacancy, and to fill it. Had not old Maynard said "The throne is vacant, but the law and the constitution remain. It is our duty to restore the regal power, and render the Legislature complete."* That hint had been followed: they had not lost time, in discussing theoretical questions, on which some might adopt one mode of reasoning and some another; but they had at once declared the Prince of Orange King. In like manner now, instead of agitating the question of right, where no question had been formally made, and where such a discussion could only lead to error and to difference of opinion, they ought to declare a regent, and thus restore the third estate. They had established the present temporary defect in the constitution by the resolution they had just voted. The next duty they had to perform was, without the loss of a moment, to supply the deficiency. The second part of the proposition, which, they were told, was necessarily connected with the first, contained a project of a very extraordinary nature, by which they were to determine on the means: but if they determined on any other means than that of immediately declaring the Regent, they would go beyond the necessity of the case, and subvert the fundamental principles of the constitution. The project was, to pass a bill. To pass a bill, was to do an act of legislation, and to make a law. Could that House, which had not the power, in their present character and capacity, to receive a petition for a turnpike bill, proceed to legislate? Did they forget the two Houses were by statute declared incapable of making laws without the King? Did they mean, then, to take into their own hands, the dormant and suspended prerogatives of the Crown? Would they assume the sovereign authority, abandon all the principles established in 1688, and recast the constitution? While they were unnecessarily jealous of their own rights, would they thus trample on the rights of the Crown, and without either preferring a claim, or asserting a right, the existence of which the plain language of the constitution expressly denied, arrogate to themselves the regal powers? Lord North then moved, "That the chairman do leave the chair, report progress, and ask leave to sit again," declaring, that he made that motion, with a hope, that when the Committee sat again, they would meet, under the impression of more constitutional sentiments, and with a better regard for the principles established at the Revolution, than they appeared to be impressed with at present.

Mr. *Powys* said, that he was adverse to a declaration of the rights of that House, when no claim had been made, that rendered such a declaration necessary. How rash was it to declare, that the Prince of Wales had no more right to the Regency than any other individual subject, and how dangerous to broach such doctrines! He did not mean any thing invidious or personal, in the reference to such an assertion, but merely to express his opinion, that any man who made an assertion of that sort, did not adopt a line of conduct likely to preserve the temper and moderation that ought to mark their proceedings on so solemn an occasion. He concluded, by seconding the amendment.

* Sec Vol. 5, p. 72.

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Mr. *Rolle* thought the question of right indispensably necessary to be discussed and decided, after what had passed in that House and elsewhere. He said, he had always acted as his conscience dictated. On the present trying occasion, the Chancellor of the Exchequer seemed to be actuated by an ardent wish to preserve the rights of the Crown safe and entire, and therefore his honest endeavours should have his support. He professed great respect for the Prince of Wales, declaring, that no man wished more sincerely well to his interest than he did, and, that when his Royal Highness should be Regent, and invested with such powers and prerogatives, as should be deemed consistent with the safety of the Crown, and the welfare of the people, no man would serve him with more loyalty.

The *Attorney General* said, that in obedience to the dictates of his duty, he had used some industry in looking into the subject of the present debate, and had considered the arguments of the noble lord, with the respect due to his ability and experience; but he must at the same time say, that the noble lord's acute discernment never appeared to him to have failed him so much, as on the present occasion. The objects which the noble lord was anxious to attain, were the very objects of the present motion—expedition and constitutional certainty. No loss of time could be incurred, by determining that it was the right and duty of the Lords and Commons to provide for the present exigency. On the contrary, such a resolution was a necessary foundation for all their future proceedings, as well as to vindicate the rights of the whole community. He wished the distinction between the politic or official capacity of the Crown, and the natural and human capacity of the person of the King, might ever be kept separate; for upon that distinction, the rectitude of their proceedings depended. The politic capacity was invulnerable; the natural capacity was otherwise. The former required no supply, the latter only unfortunately did. The mode in which the latter was in ancient times supplied lay in some obscurity. Whether in tender infancy, the expression of the King's will, by his great seal, was directed by his Privy Council, his great Council of Peers, or his still greater Council of Parliament, was a matter of some obscurity, but that it was so manifested was certain and that manifestation by the great seal, was proved by the rolls of Parliament, uniformly to have been deemed necessary. In what shape it was to be manifested in the present instance would be the subject of future consideration. He admitted, with the noble lord, that to act, and not to determine abstract questions, was the duty of the Committee; but he must also contend, that it was impossible to consider the explaining the principles upon which the Committee acted, to the community at large, as an abstract question, or so to consider it, with a view to conduct which, for the benefit of that community, they were bound to observe. He begged leave to advert to the situation in which both Houses were particularly placed. They were the only possible counsellors, to advise the King's politic capacity, as to the mode in which the exercise of the natural capacity might be supplied, in the present situation of affairs. The Attorney-general dwelt upon the distinction between the natural, and the politic capacity of the King, which constituted the difference between an absolute vacancy of the throne, which existed at the revolution, and a temporary supply of some of its natural functions. He observed, that the question had been greatly narrowed, by the noble lord's proposing in effect, that the present debate should be put an end to, upon the supposition, that its continuation must be attended with public disquietude, and that the heir apparent having tendered no formal claim, rendered it unnecessary. He adverted to the person, and the manner, in which that claim had been introduced; not by a member of the House, casually, and, as it were, by conjecture, but by a great statesman, anxiously, studiously, and upon full consideration, desiring to be understood to do it "in limine" of the whole proceeding, on the very moment of presenting the report of the Committee for inquiring into the state of the King's health. A degree of acclamation had attended that proposition; but, for his own part, he must protest, that so long as any one member in that Committee adhered to that proposition, he should himself take the sense of the House, upon the present question. Their ancestors and predecessors in that House, had furnished them with two clear and perfect examples, nearly similar, at two different periods, at the distance of thirty-two years, in the reign of Henry 6. From that time, no precedent could be expected, as no occa-

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sion called for any such provision till the reign of Henry 8, when regency acts began, which had, from time to time, been renewed. It would, therefore, be leaving their ancestors in the lurch, if the Committee deviated from those examples, founded on all preceding practice, which proved a regent to be unknown to the common law of the land, and a mere creature of parliament. He enforced this by adverting to the Rolls of Parliament, which proved, that when the Duke of York was made Regent, by King, Lords, and Commons, in the reign of Henry 6, a patent was directed to be sealed, in favour of the Prince of Wales, when he should come of age, which demonstrated that without a patent, the Prince of Wales, when of age, could not claim as of right, much less assume, the regency of this realm. He insisted, that this great question, having been anxiously introduced by a right hon. gentleman, must now be settled for all posterity. If its embers were suffered to remain smothering, they might hereafter burst out in a conflagration extremely difficult to extinguish. But, it had been said, that the present question was entirely new, and he would, for the sake of argument, consider it in that light, yet, at the same time, assert, that it brought forward no novelty whatsoever. If new, this principle must be adverted to, which was the foundation stone of the liberties and privileges that British subjects enjoy: that although the necessity of some government amongst human beings was as apparent as that of food or clothing, yet that the powers of government must be derived from the community at large; and that it must be clearly and distinctly shown that they had parted with any specific power, claimed even by the Crown, much more by its substitute. The evidence of this could only be by usage or written law, and he challenged the gentlemen of his own profession to maintain, whether there existed one single document, *dictum*, or syllable, which maintained the present doctrine; and whether there did not exist the most profound authorities to the contrary? He then enlarged upon the several species of property, in order to show, that nothing could be derived from analogy to them, whether it consisted of personal or real property, of offices or dignities, which could support the argument against the present question. He conjured the House not to skulk from the real and substantial question of their rights, under the shelter of a sort of previous question, but manfully to recollect, that they were acting, not for themselves personally, but for the subjects of the empire, from the highest to the lowest. The dead silence of the whole law, upon this common-law right of a regent, was a strong proof that it was unknown. If there were such a common-law officer, he asked, how our ancestors, when framing the coronation oath, the counterpart of the oath of allegiance, had not directed that it should be administered to regents, as well as to kings? Whereas, according to the doctrine of the day, a regent was to step into the throne, without such pledge given to the people of the land for the enjoyment of their rights, civil and religious. This dead silence, as to common-law right, was, however, interrupted by the powerful language of parliament, when it granted a reversionary patent to the Prince of Wales, then a minor, when he should come of age. It seemed as if this had been done to preclude any claim of right for ever, and, he hoped and trusted, that, on the present occasion, we should reap a benefit from such a lesson.

Mr. *Fox* said, that some remarks which had fallen from different speakers, in the course of the debate, compelled him to break silence, although it had not been his intention to have troubled the Committee, and, indeed, if he had thought it necessary, after what the House had before heard from him on the subject, to enter into any farther justification of his opinion, which he did not, he was not, from personal indisposition, capable of doing that justice to its defence, which he was sure it deserved. Not thinking it necessary to make such a defence, he would treat the question only in a collateral way, and, therefore should not have occasion to detain the Committee very long, nor was there danger of his injuring that cause which he had engaged in, by any deficiency of reasoning resulting from his present ill state of health. Any man would imagine, from the weakness of the arguments advanced on the other side, that those who had used those arguments, wished to provoke him to debate the right of his royal highness the Prince of Wales to exercise the sovereign authority, during the incapacity of the sovereign. From the extreme futility of their reasoning, from the glaring absurdity of their inferences, the false premises they had laid down, and

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the irrelevant and inapplicable precedents, which they pretended to rely on, they, perhaps, thought that they held out a temptation so strong, that flesh and blood could not withstand it.

Could the Chancellor of the Exchequer and his friends suppose that the Committee would think them serious, in supporting the system they meant to proceed upon in the present exigency, by producing the sort of precedents to which they had referred? What a miserable system must that be, the prominent features of which were so disgraceful! Was the practice of the present times, times so enlightened, and in which the principles of the constitution were so well understood, to be grounded on precedents drawn from so dark and barbarous a period of our history as the reign of Henry 6.? And were the rights of that House of Commons, and its proceedings in one of the most difficult moments that had ever occurred, to be maintained and vindicated by the example of the House of Lords, at a time that the rights of the Commons House of Parliament were so ill understood, or so weakly sustained, that its Speaker was actually in prison, on commitment of the House of Lords; in prison upon a judgment in favour of that duke of York, whose measures administration had avowed it to be their intention to imitate? Let the Committee reflect a moment on the period, the infamous transactions of which were chosen as the model of the proceedings of this day; that period which led immediately to the wars between the houses of York and Lancaster, and was that melancholy æra at which all the dismal scenes of anarchy, confusion, civil warfare, and bloodshed, that so long desolated the kingdom, and reduced it to a state of unparalleled disgrace and distress, commenced. Were the Committee to select their precedents from such times, and to govern their conduct by such examples? From a time, too, when the House of Commons was prostrate at the feet of the House of Lords, when the third estate had lost all energy and vigour, and when the power lay wholly in the hands of the barons. Precedents drawn from such times could not be resorted to with safety because there was no analogy between the constitution then, and the constitution as established at the Revolution, and since practised. All precedents taken from periods preceding the Revolution, must be precedents which bore no analogy to the present case; because, at no one period before the Revolution, was civil liberty clearly defined and understood, the rights of the different branches of the legislature ascertained, and the free spirit of our constitution felt and acknowledged. The earlier periods of history were such, as only showed the changes of hands into which power shifted, as the circumstances of the times ordained. In one reign, the power would be found to have been in the king, and then he was an absolute tyrant; in others, the barons possessed it, and held both King and Commons in the most slavish subjection; sometimes the democracy prevailed, and all the oppressions of a democratical government were practised in their fullest enormity.

No precedent, therefore, drawn from times so variable, where right and wrong were so often confounded, and where popular freedom had neither an existence nor a name, ought to be considered as of the least authority. Amidst all the precedents, he desired to know if they had found one of a prince of Wales, of full age and full capacity, who had been denied the exercise of the sovereignty, during the known and declared incapacity of the sovereign? One of the precedents the right hon. gentleman had mentioned, leaned rather that way; he meant the precedent in the reign of Edward 3, where the prince of Wales, though a minor, was declared regent, in the absence of his father. With regard to what the right hon. gentleman had stated of the quarrel between the cardinal de Beaufort and the duke of Gloucester, was that at all in point to the case to which the right hon. gentleman had so invidiously applied it? What was that charge? A charge that cardinal de Beaufort had, in the reign, and during the life-time of Henry 4, advised the prince of Wales, afterwards Henry 5, to take upon himself the exercise of the sovereign authority. Was there the smallest degree of analogy between the illness of Henry 4, and the known cause of the incapacity of our present sovereign? Henry the 4th was afflicted with a languor, the natural concomitant of age, and, in his case, the consequence of a fever and long sickness; but was Henry 4 therefore incapacitated from the exercise of the sovereign authority? By no means: he might not be able to meet his parliament, but, most undoubtedly, he was not disabled from executing public business of any other nature. He was in full possession

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of his mental faculties, could issue his orders, and instruct his ministers, just as well as he had exercised those powers in the fullest vigour of his youth. To advise the Prince of Wales, therefore, under such circumstances, to take upon himself the sovereign authority, was to advise him to be guilty of high treason; and had the Prince of Wales been so advised, and followed the advice, the Prince would have been guilty of high treason, and have subjected his life to forfeiture. It was no wonder, therefore, that cardinal de Beaufort, feeling the weight of such an accusation as that urged against him by the duke of Gloucester, and knowing the serious consequences to which it led, should such a charge be proved against him, acted wisely in avowing his innocence, standing upon his defence, and desiring to have the matter referred to the Judges, that he might be purged of the guilt imputable to so foul an offence.

Upon the present occasion, there had been two assertions of positive right on both sides of the House. On his side, the assertion of the right of the Prince of Wales, being heir apparent, and of full age and capacity, to exercise the sovereign authority during his Majesty's infirmity. On that of the right hon. gentleman, the assertion that the Prince had no more right to exercise the sovereign authority, under such circumstances, than any other individual subject. He did not understand the invidious dignity he had been exalted to on this occasion, nor could he admit what the hon. and learned gentleman, who spoke last, had been pleased to lay so much stress upon, that any opinion delivered in that House, by so humble and insignificant an individual as himself, or by any member of what rank and degree soever, ought to be made the ground of a proceeding of the House. But, since the right hon. gentleman was determined to make a personal question between them, since he condescended to consider himself his rival, and chose to have recourse to his majority, why would he not try his opinion, and let the question be, "That it is the opinion of this Committee, that his royal highness the Prince of Wales, being heir apparent, and of full age and capacity, has no more right to exercise the royal authority, during his Majesty's incapacity, than any other individual subject." The right hon. gentleman well knew, that he dared not venture to subject such a question to debate: he well knew, that, with all his majorities, he could not risk it; he well knew, that if he could have so far lost sight of prudence, as to have hazarded such a question, notwithstanding his high character, and his known influence within those walls, there would not have been twenty members who would have supported him in it. In fact, he well knew, that the moment he let such an opinion escape his lips, it was execrated by all who heard it, and that it had been since execrated, by all who had heard of it, out of doors. What had been the result of this? Conscious of his error, and conscious that so monstrous a doctrine as he had suffered himself, in an evil hour, to deliver, had revolted the public mind, the right hon. gentleman had seized on the first moment that offered, to qualify what he had said, by unnecessarily coming forward with a declaration, that, though he would not admit the Prince of Wales's right to exercise the sovereign authority, during the incapacity of his father, yet he confessed that, on grounds of expediency, and as a matter of discretion, the person to hold the regency ought to be the Prince of Wales, and no other.

This mode of argument, Mr. Fox observed, reminded him of what had passed in that House about thirteen years ago, between an eminent crown lawyer, now the first law character in the kingdom, (the Lord Chancellor) and himself. At the time to which he referred, the argument had been the right of this country to tax America, when he had contended, that Great Britain had an undoubted right to tax her American colonies, but that the exercise of that right would be, in the highest degree, unjustifiable on the part of Great Britain. In answer to this, the great lawyer, with a quaintness peculiar to himself, had said, "I should be glad to know what that right is, which when attempted to be exercised, becomes a wrong." In the present case, the right hon. gentleman had acted upon the converse of the great lawyer's maxim, having pronounced the right a wrong, and then immediately proceeded to exercise it in the most effectual manner. In one point of view only, could he imagine the existence of a right, which, when exercised, might become a wrong; as for instance, the three branches of the legislature, consisting of King, Lords, and Commons, had a right to authorize and act a moral evil. They might set aside the succession, and

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deprive the Prince of Wales of his hereditary right to succeed his present Majesty; but this enormity could not of right be practised by the two Houses of Parliament, independent of the consent of the sovereign, any more than the minister could set himself up in competition with the Prince of Wales, and contest with him, as a claimant, for the regency. For his own part, he could not hesitate to repeat his opinion, that a right attached to the Prince of Wales, as heir-apparent, to exercise the sovereign authority, upon the King's incapacity being declared by the two Houses of Parliament; the Prince's right, however, being all along considered as subject to the adjudication of the two Houses of Lords and Commons. This opinion he had not changed, nor did he feel the smallest disposition to change it; and, indeed, the hon. and learned gentleman who spoke last, seemed to coincide with his sentiments, for he had, if he understood him rightly, expressly declared, that in case of the demise of the crown, nothing short of an act of exclusion could prevent the Prince from succeeding to the throne, and that even nothing short of such conduct as would deservedly warrant an act of exclusion, ought to throw out a prince of Wales, of full age and full capacity, from the regency. The counter opinion to his was fraught with so many, and such enormous evils, that he was persuaded no moderate man, who considered the subject with the degree of attention that it most undoubtedly merited, would, for a moment, maintain it, either on the ground of right, of discretion, or of expediency. Whatever his opinion was, why should that right be discussed, which had been neither claimed, nor intended to be claimed? That this was the precise state of the fact, was not to be doubted, after the declaration which had been so graciously communicated from the highest authority in another place. Of the manner in which that communication had been made, and the commendation that was due to the exalted personage who made it, he would not say one word; because he would not run the risk of having what was due to merit mistaken for fulsome adulation, and servile flattery. But, the claim thus disavowed, how must the preamble of a bill run, truly to describe the case as it stood at present: "Whereas his royal highness the Prince of Wales has never claimed a right to the regency, it becomes necessary for the Lords spiritual and temporal, and for the Commons of England, to declare, that his Royal Highness has no right, and we therefore do hereby declare his Royal Highness sole Regent of these kingdoms." What could prove more ridiculous, than a bill, opening with this language? And so it must be worded, unless they falsified the fact, and made a course of law a ground-work of the Bill.

All this difficulty and embarrassment was created, when there was not the smallest occasion for it, since it was the concurrent opinion of all mankind, that the Prince of Wales should be the regent. Why, then, would the right hon. gentleman thus agitate the matter, unless it were for the little purpose of personal triumph? Extremely censurable was the boasting language used upon this occasion, of gratitude to the sovereign, and the strong assertions that such gratitude should be exemplified, by the conduct of those who confessed themselves under personal obligations to the sovereign. Personal attachment was no fit ground for public conduct, and those who had declared they would take care of the rights of the sovereign, because they had received favours at his hands, betrayed a little mind, and warranted a conclusion, that if they had not received those favours, they would have been less mindful of their duty, and have acted with less zeal for his interest, than if they had not been indebted to him for any favours.

Mr. Fox owned himself indebted to the heir-apparent, because he had been pleased, for several years, to favour him with his confidence; but that flattering mark of distinction had not been made the subject of his speeches in that House, nor had he ever considered it as a proper motive for his public conduct. Neither on the present occasion, nor at any time, if he thought the objects of his Royal Highness incompatible with the public interests, should he think he paid a compliment to the Prince, any more than he should think he acted consistently with what was due to his own character, in suffering the consideration of the terms on which he lived with his Royal Highness to bias him in the smallest degree, or induce him to act contrary to what he, in his conscience, thought most likely to promote the welfare of the public: whereas, the right hon. gentleman appeared to act upon a very opposite principle, and repeatedly introduced the name of the sovereign, though seldom

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for any other purpose, than an ostentatious display of the confidence reposed in himself. To the House of Brunswick this country stood, in an eminent degree, indebted; and, indeed, few princes ever deserved the love of their subjects more than the princes of that house. Since their accession to the throne, their government had been such as to render it highly improbable, that there should ever be ground for an act of exclusion to pass, to set aside one of their heirs from the succession, or that such a circumstance should ever become a necessary subject of contemplation. If the princes of the House of Brunswick had, at any time, differed with their subjects, it had been only on collateral points, which had been easily adjusted in parliament. No one of the princes of that House had ever made any attempt against the constitution of the country; although, had such a mischievous design been meditated, a party could have been found in existence, and ready to abet them in any scheme, the blackest and most fatal that ever tyrant devised against the liberties or the happiness of his subjects. The love, therefore, of the people was due to the illustrious family on the throne, in so peculiar and eminent a degree, that every circumstance which looked as if it could at any distance endanger the hereditary right of the House of Brunswick to the succession, ought to be guarded against with peculiar jealousy.

Exclusive of the concurrence of the public voice, not only the spirit of the constitution pointed out the heir apparent as the fittest person to be regent, but the act of settlement might be defeated if his royal highness were passed by, and the doctrine of the right hon. gentleman carried into effect. In adhering to the principles of the act of settlement, there could be no danger. If, as the hon. and learned gentleman had said, there should be a Prince of Wales, whose political principles were so depraved, that, in opposition to his own natural interests, he should have followed the example of Charles 1, and James 2, either in one instance, indicating a determination to become a tyrant and destroy the liberties of his subject, by subverting the constitution, or in the other, by connecting himself with France and the political enemies of his country, that every thing fatal was to be dreaded from his government, such a Prince of Wales ought to be excluded from the regency, in like manner as he undoubtedly would be excluded from the throne, on the natural demise of his father, or predecessor. But then, the bill of exclusion to pass in such case, must be the work of the legislature complete, and not the act of two branches of the legislature only. Let the Committee consider the danger of making any other person regent besides the Prince of Wales! If the two Houses could choose a regent, they might choose whom they pleased; they might choose a foreigner, a catholic (for the law defines not the regent) who, while he held the power of the third estate, might prevail on the other two branches of the legislature to concur with him, alter or set aside the succession, and turn away the house of Brunswick, and put them in the situation of the house of Stuart.

He perceived that this doctrine was deemed extravagant, but he meant to put an extravagant case; he had not, however, put an impossible one; let them turn to the favourite period of our history—favourite at least with the other side of the House that day—the reign of Henry 6, and they would find that Richard, Duke of York, took advantage of his power as protector of the kingdom, and actually disinherited the Prince of Wales and the whole line of Lancaster, though they were more nearly allied and had much better pretensions to the crown than the house of York. The same dismal scene which had disgraced our annals at that period, might be acted over again, if the two Houses of Parliament ever concurred to subvert the constitution, by assuming to themselves the exercise of the royal prerogative, and arrogating the right to legislate and make law in the teeth of the statute of the 13th of Charles 2, which he had, on a former day, found occasion to mention, and which not only declared, that the two Houses of Parliament could not make laws without the consent and concurrence of the king, but also declared, that whoever should presume to affirm the contrary, should be guilty of high treason, and incur the pains and penalties of a premunire.

To make a law for the appointment of a regent, he considered, so far as it went, as a conversion of the succession to the monarchy from hereditary to elective; and what sort of a constitution that was which had an elective monarchy, Poland, and the miserable condition of its subjects, sufficiently evinced. The right to make

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laws rested only in the legislature complete, and not in the concurrence of any two branches of it. Upon that very principle was our constitution built, and on the preservation of it did its existence depend. Were the case otherwise, the constitution might be easily destroyed, because if the two branches could assume the power to make law, they might, in that law, change the genius of the third estate. The present situation of affairs had been compared to the revolution, but, in fact it was no way similar. The throne had then been declared vacant, and the rest of the constitution remained. Now, the throne was declared full, but its authority was suspended. At the period of the Revolution, the convention which was then assembled, conscious that they could not make any change in the genius of the monarchy, until they had a head, first restored the third estate, and then defined its power. Whereas the Committee were called on to proceed in a different way; first, to new-cast the office, and then to declare the officer. And what must be the situation of a regent elected by that House? He must be a pageant, a puppet, a creature of their own, "sine pondere corpus," an insult and a mockery on every maxim of government!

Mr. Fox defined the nature and character of the three estates. The constitution supposed each of its three branches to be independent of the other two, and actually hostile; and if that principle was once given up, there was an end to our political freedom. Suppose that the Crown and the House of Lords could make laws without the concurrence of the House of Commons, or the Crown and the Commons independent of the Lords, or the two Houses of Parliament without the Crown; in either case the constitution was gone. The safety of the whole depended on the jealousy of each against the other; not on the patriotism of any one branch of the legislature, but rather on the separate interests of the three, concurring, through different views, to one general good, the benefit of the Community—a principle congenial to human nature, prone to the extension of power, and to the depression of a rival! All these principles and arrangements would be destroyed by the present project, which would radically alter the government, and of consequence, overturn the constitution.

Mr. Fox explained the particular powers of the Crown to defend itself against any encroachment on the part of the Commons, or to resist any faction in the House of Lords. In the one case, by a dissolution, the king might resist the attempt on his pregrogative, and by an increase of the peerage he might quell the other. The power of giving either an assent or dissent from any bill, operated equally against the single design of one, or the confederate union of both Houses to trench on the constitutional rights of the Crown; and, great as obvious was the disadvantage of subjecting the sovereign to such difficulties, as he would be liable to encounter, were the power of dissolution, of increase of peerage, and of the right of giving the assent or dissent to bills taken away. If there was to be a monarch, the monarchical power ought to be entire, and for this indisputable reason; because the name and rank of a king without the possession of regal powers, was a being which did not come within the reach of human conception, If it appeared to the House that the royal prerogative ought to be circumscribed, let them invest a proper person with it, and then openly and manfully contend for the circumscription or diminution of its powers; but to aim at an adversary incapable of resistance was neither brave nor noble.

Mr. Fox pointed out the danger of making the regency elective, and of the two Houses setting aside the hereditary right to it; insisting that the possession of the Crown, and of the executive authority, must, in the nature of things be governed by the same principles. In order to illustrate this, he put the case of a Polander asking an Englishman whether the monarchy of Great Britain was hereditary or elective? Any man, familiar with the theory of the constitution would naturally think, that the ready answer would be that it was hereditary. But if the doctrine of that day prevailed, the answer must be, "I cannot tell; ask his Majesty's physicians." When the King of England is in good health, the monarchy is hereditary; but when he is ill, and incapable of exercising the sovereign authority, it is elective." The assertion, that the British monarchy was elective, was, however, so palpably hostile to the principles of the constitution, that it would not be tolerated for a moment. How, then, was the difficulty to be surmounted? A subtle and politic lawyer might be found, who would plausibly advance, that though it must be allowed that the monarchy was hereditary, the

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executive power might be elective. Thus, the crown and its functions might be separated, as if they were in their nature distinct, whereas, the one was the essence, and the other the name. Mr. Fox here pursued his argument in an hypothetical dialogue between the Englishman and the Pole, with the occasional aid of the politic lawyer, to reconcile contradictions and explain apparent impossibilities, ridiculing the argument of the gentlemen of the long robe, that the political, as well as the natural capacity of the King, remained whole and entire, although he was declared incapable of exercising his regal functions. If the Crown was to have no functions, why there should be a king, was beyond his imagination to discover. The legal metaphysics which distinguished between the Crown and its functions, were to him unintelligible. The investigators should be schoolmen and not statesmen, fitter for colleges of disputation, than a British House of Commons, if a question that so deeply involved the existence of the constitution, were to be thus discussed: and, where was that famous *dictum* to be found, that expressly described the Crown as guarded by such sanctity, and left its powers at the mercy of every assailant?

Having contended, that such was the absurdity of legal metaphysics, and called upon the gownsmen to show him the *dictum* which supported the opposite assertion, that the Prince of Wales had no more right to exercise the sovereign authority during his Majesty's incapacity, than any other individual subject, Mr. Fox adverted to a part of the argument advanced against him, and including an allegation, that he had deserted the cause which he had heretofore been supposed to claim the peculiar merit of standing forth on all occasions to defend; and thus manifested an inattention to the privileges of the House of Commons, against the encroachments of the prerogatives of the crown. Upon this occasion, Mr. Fox remarked, that his own resistance against the latter, when it had been thought increasing unconstitutionally, were well known. The influence of the Crown had been more than once checked in that House, and he really believed, to the advantage of the people. Whenever the executive authority was urged beyond its reasonable extent, it ought to be resisted, and he carried his ideas on that head so far, that he had not scrupled to declare, that the supplies ought to be stopped, if the royal assent were refused to a constitutional curtailment of any obnoxious and dangerous prerogative. Moderate men, he was aware, thought this a violent doctrine; but he had uniformly maintained it; and the public had derived advantage from its having been carried into effect. He desired to ask, however, if this was an occasion for exercising the constitutional power of resisting the prerogative or the influence of the Crown in that House? He had ever made it his pride to combat with the Crown in the plenitude of its power and the fulness of its authority; he wished not to trample on its rights, while it lay extended at their feet, deprived of its functions, and incapable of resistance. Let the right hon. gentleman pride himself on a victory obtained against a defenceless foe! Let him boast of a triumph where no battle had been fought, and, consequently, where no glory could be obtained! Let him take advantage of the calamities of human nature; let him, like an unfeeling lord of the manor, riot in the riches to be acquired by plundering shipwrecks, by rigorously asserting a right to the waifs, estrays, deodands, and all the accumulated produce of the various accidents which misfortune could throw into his power! Let it not be my boast, said Mr. Fox, to have gained such victories, obtained such triumphs, or availed myself of wealth so acquired!

Mr. Fox declared, that all the labour of the Committee appointed to search for precedents had been fruitless, for that not one of the precedents applied. If they tended to prove any thing, it was to establish the prince's right: since, in all of them, the nearest relative to the crown, if in the kingdom, had been appointed the regent, and especially a Prince of Wales, in the reign of Edward 3, his son, commonly called the Black Prince, was declared regent, at only thirteen years of age, during the invasion of France by his father; and, afterwards, during the absence of Edward and the prince, his brother, Lionel, duke of Clarence was appointed. The regencies in the reign of Henry 6, proved the right of the Prince of Wales the more fully, because, in that reign, the right of the Prince of Wales was recognized, although he was not a year old, in the very patent which appointed the Duke of York protector. Mr. Fox now observed, that an hon. gentleman had, in the course of the debate, chosen to remark, that the Chancellor of the Exchequer stood higher in the opinion

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of the public, at present; than he (Mr. Fox) did. Before any gentleman took upon himself to pronounce on such topics, he ought to be sure that he was right in his assertion. He had every reason to believe, that the hon. gentleman was mistaken in what he had asserted, having lately had an opportunity of meeting his constituents, and having then received the most unequivocal and flattering proofs of their confidence and kindness. He agreed, however, most cordially with that hon. gentleman, in every observation that he had made, of the probable effects of the present motion, if persisted in, with regard to Ireland, and the creation of a difference between the two Houses of parliament. With respect to Ireland, if the two Houses of British parliament named the Prince of Wales as regent of right, most probably, the parliament of Ireland would do the same; if they speculated, the Irish parliament would speculate. Let them decide wisely, and their decision would be followed, as an example. If the question of right was but once set afloat, it would become impossible to say to what extent it might be carried.

Mr. Fox said he would again call in question the necessity for the present proceeding, and urge the fallacy of pretending, that the opinion, which he, as a private member of that House, had delivered, and the opinion, which his noble and learned friend (lord Loughborough) had delivered elsewhere, made it necessary. He reprobated the indecency of selecting the arguments of his noble and learned friend, and falsely applying them merely for the purpose of placing them in a ridiculous point of view. The right hon. gentleman must have known, that the arguments of his noble and learned friend were arguments merely advanced to prove that the Prince of Wales, as Prince of Wales and heir apparent, had rights peculiar and distinct from those of ordinary subjects, and not with a view to prove his right to exercise the sovereign authority. The manner, therefore, in which the right hon. gentleman had answered those arguments betrayed a narrowness of mind which he had not imagined the right hon. gentleman would have condescended to have acknowledged.

Mr. Fox desired to know the use of bringing forward a question of right, when the expediency of constituting the Prince of Wales regent was, on all hands, agreed upon. He charged the Chancellor of the Exchequer with a determination to legislate without the power to do so effectually, which would alter the genius of the third estate, without any crime alleged against either the sovereign, declared, for the present, incapable to exercise the royal authority, or the intended regent. If they could make whom they pleased regent, they could appoint the regent for a day, a month, or a year, turning the monarchy into a republic as had been the case with Rome. And while the right hon. gentleman denied, that the Prince of Wales had any more right than he himself had, he confessed it would be a breach of duty to think of any other regent,—and all this for the paltry triumph of a vote over him, and to insult a prince, whose favour he was conscious he had not deserved!

Mr. Fox declared he was ready to admit, that the right hon. gentleman's administration had been, in some respects, entitled to praise; he was ready to say what were the parts that most deserved commendation, and as willing to give them his applause, as any member of that House. What he alluded to, were the measures adopted to detach Holland from its connexion with France. The whole conduct of that transaction, as well as its issue, was wise and vigorous, laudable and effectual, and he was happy to take that opportunity of delivering his sentiments concerning his ministerial conduct, upon this occasion. Of his other measures, he certainly entertained a very different opinion. The right hon. gentleman, however, appeared to have been so long in the possession of power, that he could not endure to part with it; he had experienced the full favour of the Crown, and enjoyed the advantage of exerting all its prerogatives; and, finding the operation of the whole not too much for the successful carrying on of the government, he had determined to cripple his successors, and deprive them of the same advantages which he had possessed, and thus circumscribe their power to serve their country, as if he dreaded, that they would shade his fame. Let the right hon. gentleman for a moment suppose, that the business of detaching Holland from France, or any contingency of equal importance, remained to be executed; he must know, that there would be no power in the country, to seize the advantage, if the right hon. gentleman's principles were right. For his own part, Mr. Fox declared, that he could not avoid calling most fervently upon every honest mem-

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ber of that House, not to vote, without perfectly understanding what the question went to, as well as the other resolutions. With regard to the right hon. gentleman's motives, he knew not what they were, but if there was an ambitious man in that House, who designed to drive the empire into confusion, his conduct, he conceived, would have been exactly that which the right hon. gentleman, had pursued.

The Resolutions moved, appeared, in his opinion, as insidiously calculated to convey a censure on the sentiments, which he delivered, while they served as an instrument of evasion of an assertion, highly revolting to the public mind, made by the right hon. gentleman himself. This he reprobated as a pitiful shift, totally irreconcilable with the confidence which the right hon. gentleman placed in the expectation of a majority. In majorities, Mr. Fox declared he had no great trust; he had for many years had the mortification to find himself in a minority in that House; and yet, upon a change of situation, he had generally found, that the majority, who had before divided against him, divided with him. For more than eighteen years of his political life, had he been obliged to stem the torrent of power, and sometimes he had enjoyed the satisfaction of finding himself in a majority of he same parliament, of which, in the prosecution of the same principles and the declarations of the same designs, he had before been only supported by a minority.

Mr. *Pitt* observed, it was not without some astonishment that he discovered, that the right hon. gentleman had thought proper, particularly in the latter part of his speech, to digress from the question of right, which was then before the House, in order to enter upon the question of expediency, and that not so much for the purpose even of discussing that expediency as to take an opportunity of introducing an attack of a personal nature on him. The House would recollect, whether the manner in which he had opened the debate, either provoked or justified this animosity. This attack, which the right hon. gentleman had just now made, he declared to be unfounded, arrogant, and presumptuous. The right hon. gentleman had charged him, as acting from a mischievous spirit of ambition, unable to bear the idea of parting with power, which he had so long retained; but not expecting the favour of the prince, which he was conscious he had not deserved, and therefore disposed to envy and obstruct the credit of those who were to be his successors. Whether to him belonged that character of mischievous ambition, which would sacrifice the principles of the constitution to a desire of power, he must leave to the House and the country to determine. They would decide, whether, in the whole of his conduct, during this unfortunate crisis, any consideration which affected his own personal situation, or any management for the sake of preserving power, appeared to have had the chief share in deciding the measures he had proposed. As to his being conscious that he did not deserve the favour of the Prince, he could only say, that he knew but one way, in which he, or any man, could deserve it; by having uniformly endeavoured, in a public situation, to do his duty to the King his father, and to the country at large. If, in thus endeavouring to deserve the confidence of the Prince, it should appear, that he in fact had lost it, however painful and mortifying that circumstance might be to him, and from whatever cause it might proceed, he should indeed regret it, but he could boldly say, that it was impossible he should ever repent of it.

The right hon. gentleman had thought proper to announce himself and his friends to be the successors of the present administration. He did not know on what authority the right hon. gentleman made this declaration; but, he thought, that with a view to those questions of expediency, which the right hon. gentleman had introduced, both the House and the country were obliged to him for this seasonable warning of what they would have to expect. The nation had already had experience of that right hon. gentleman and his principles. Without meaning to use terms of reproach, or to enter into any imputation concerning his motives, it could not be denied, that they were openly and professedly active, on the ground of procuring an advantage, from the strength of a party, to nominate the ministers of the crown. It could not be denied, that it was maintained as a fundamental principle, that a minister ought at all times so to be nominated. He would therefore speak plainly. If persons, who possessed these principles, were in reality likely to be the advisers of the Prince, in the exercise of those powers which were necessary to be given, during the present unfortunate interval, it was the strongest additional reason, if any were

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wanting, for being careful to consider, what the extent of those powers ought to be. It was impossible not to suppose that, by such advisers those powers would be perverted to a purpose which it was indeed impossible to imagine that the Prince of Wales could, if he was aware of it, ever endure for a moment; but for which, by artifice and misrepresentation he might unintentionally be made accessary, for the purpose of creating a permanent weight and influence, in the hands of a party, which would be dangerous to the just rights of the Crown, when the moment should arrive, (so much wished, and perhaps, so soon to be expected) of his Majesty's being able to resume the exercise of his own authority. The notice, therefore, which the right hon. gentleman in his triumph had condescended to give to the House, furnished the most irresistible reason for them deliberately to consider, lest in providing for the means of carrying on the administration, during a short and temporary interval, they might sacrifice the permanent interests of the country, in future, by laying the foundation of such measures, as might, for ever afterwards during the continuance of his Majesty's reign, obstruct the just and salutary exercise of the constitutional powers of government, in the hands of its rightful possessor, the sovereign, whom they all revered and loved.

The noble lord in the blue ribbon, like most of the gentlemen who had spoken on that side of the house, had argued, not against the truth of the resolutions, but the propriety of coming to them, and had waved any dispute on the question of right. The right hon. gentleman, though he affected also to object to the propriety of coming to this resolution, had directed his whole argument, as far as it went, to an invalidation of the truth, of the proposition, and the maintenance of his former assertion, in favour of the existing right of the Prince of Wales. This line of argument, supported by such authority, was itself an answer to those who doubted the propriety of any resolution.

The right hon. gentleman had ventured to represent him, as having declined maintaining his former assertion, "That the Prince of Wales had no more right to the regency, than any other subject in the country," and he had also intimated, that he had thus retracted, in consequence of believing that not twenty persons would join in supporting that proposition. But it so happened, that he did not retract one single word of that assertion. Gentlemen might quarrel with the phrase, if they thought proper, and misrepresent it, in imitation of the right hon. gentleman, in order to cover the arguments used by a learned lord (Loughborough) in another place. But he was in the recollection of the House, whether when he first used the expression, he had not guarded it, as meaning to speak strictly of a claim of right, not of any reasons of preference, on the ground of discretion or expediency. He was also in their recollection, whether the right he spoke of was any other than the specific right in question, namely, the right to exercise the royal authority, under the present circumstances. He had maintained, that the prince had no such right. If the prince had not the right, he could not be said to have any more right than any other subject in the country. But was it any answer to the assertion, that as Prince of Wales he had no right to the regency, to say that he had other rights, different from the rest of the King's subjects, but which had nothing to do with the regency? Yet all the rights of the Prince of Wales, which had been mentioned by the noble lord alluded to, were of this description. It would be just as reasonable if the question were, whether any person had a right to a particular estate in Kent or Surrey? to argue, yes he has, for he has such and such an estate in Yorkshire, and in Cornwall. With regard to the question, whether twenty persons did or did not agree in his denial of the right of the Prince of Wales, he would put the whole on that issue, that if the Prince of Wales had any such right, the resolution he had moved could not be true; and he considered every person who differed from his assertion on that subject, as bound to vote against the present motion. The right hon. gentleman in discussing the question of right, chose also to remark, that the right of the two Houses, and the right of the Prince of Wales, were to be considered as two rival rights, and that the only question was in favour of which the arguments preponderated. He should be perfectly ready to meet the question on this issue, if it were the true one, for the right of the two Houses was clearly supported by precedent and usage, in every similar case, by express declarations of parliament, and by positive authority of law; yet the right of the Prince of Wales was not even attempted to be supported

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on any of those grounds, but on pretended reasons of expediency, founded on imaginary and extravagant cases. In fact, this was not the fair issue of the argument. The right of the Prince of Wales was not to be considered as a rival right, to be argued on the same grounds as the other. It was a right which could not exist, unless it was capable of being expressly and positively proved; whereas, the right of parliament was that which existed of course, unless some other right could be proved to exclude it. It was that which, on the principles of our free constitution, must always exist in every case where no positive provision had been made by law, and where the necessity of the case, and the safety of the country, called for their interposition. The absence of any other right, was in itself enough to constitute the right of the two Houses, and the bare admission that the right of the Prince of Wales was not clearly and expressly proved, virtually operated as an admission of every point under discussion.

The *Lord Advocate* (of Scotland) was at a loss to discover how the general question of right could be waved, unless both Houses were ready to resolve that the Prince of Wales should not only be regent, but invested with all the royal powers without limitation or distinction; for if a limitation of any kind was to be the subject of debate, it did not seem possible to avoid a previous discussion of the right. As to the question itself, he hoped it would be considered, that they were not met to deliberate upon a settlement of the kingdom of England alone. He thought it necessary to inquire into the constitution of England and of Scotland separately before the Union, and of Great Britain since. He had heard it very confidently affirmed, that, were the supposed inherent right of the heir apparent to exercise the royal powers upon such occasions as the present to be disallowed, the consequence would be a virtual dissolution of the Union, the rule being fixed in Scotland, in favour of such hereditary and legal claim of right; but he would take the liberty of asserting, with equal confidence, that the proposition had no real foundation. It was true, that by the law of that country, the right of private guardianship did, in certain circumstances, attach upon the nearest male kinsman by the father's side, at the age of twenty-five, and in the earlier periods of the Scottish monarchy, little distinction seemed to be made between the situation of a private guardian, and that of the person who acted for the king in his nonage, insomuch that some law authorities of great respectability had laid it down, that the powers of a regent were merely tutorial, and it had been determined by the Parliament of Scotland in the reign of James 1, that the duke of Albany, when regent, could neither restore a person forfeited for treason, nor grant lands which had fallen to the Crown by bastardy. It was well known, that the powers of a private guardian were of the most confined nature, and could not proceed to greater lengths than the exigency of the case required, nor encroach upon the purposes of ordinary management. But he thought it wrong to compare that case with the government of a kingdom, where powers of a very different nature were necessary to be given. As to the appointment of a regent whatever his powers might be, the same had always been made in Scotland, as in England, under the sanction and authority of the states of the kingdom, either previously given, or afterwards interposed; sometimes the next heir of the crown had been chosen, sometimes not; sometimes one regent; and, at other times, more than one. Many of the kings of Scotland having fallen in battle, and some by the hands of their subjects, when the power of the aristocracy was too great, there had been more infant succession, and more regencies in Scotland, than in most other countries; and the states of the kingdom had repeatedly shown, that they did not consider any individual whatever as having a fixed legal right to that office. When the Maid of Norway succeeded her grandfather, Alexander 3, six regents were appointed. In the infancy of James 2 of Scotland, there was a regency of three. In that of James 3, there was a regency of seven. In that of James 3, the duke of Chatelheraut, the next presumptive heir of the crown, claimed the office upon that ground; but his claim was disallowed, and first the earl of Murray was appointed, and afterwards, probably others, none of whom were in succession to the crown. It was of more consequence, however, to consider how that matter had been understood by the Legislature of Great Britain since the Union; and surely it was impossible to read the Provisional Acts of 24 Geo. 2, and 5 Geo. 3, without seeing clearly

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that no right of administration was then supposed to attach upon any individual. As to the idea of a civil demise, it was totally inapplicable to such a case as the present. A person was held to be civilly dead, when he had lost the rights of a citizen, as in the case of attainder: but was it ever thought that an infant was civilly dead? It would be a little hard, when he was but just born. An infant could hold property, could acquire, and had every civil right entire. A person incapable from infirmity to manage his own affairs was exactly in the same state. He could not, therefore, have a successor while he was alive, and in the full possession of his rights. Neither the Prince of Wales, nor any other individual, had a legal right on this case to be regent, though not a man probably in the kingdom would think of any other than the present heir apparent.

Mr. *Milnes* said, that, in his opinion, the conduct of Mr. Fox and his friends merited the utmost reprobation, and amounted to a dereliction of those constitutional principles, hitherto the theme of universal admiration, by their sacrificing the rights of the two Houses of Parliament to the claims of an individual. From the sort of argument that they had maintained on this truly important occasion, therefore, if they did soon come into power, instead of a Whig administration and a mild government, which it had been their practice to hold out as what would be their true character and conduct when in office, the country had every reason to dread the most arbitrary and oppressive system of measures that had ever disgraced ministers, and harassed the subject in the worst periods of our history.

The *Solicitor General* contended, that the King was still, in the contemplation of the law, as perfect as ever, and the positive right of the Prince of Wales to the regency was, in the present case, clearly undefined. No precedent, no analogy, could be furnished, from the legal records of the constitution, that established it as a right; no provision, then, having been made by law, in the present conjuncture of affairs, parliament was called on to establish a precedent, which the contingency of past ages had not furnished. It was his opinion, that the Prince of Wales should be fully invested with every authority requisite for managing the public business with energy and effect; but, recollecting that there was still a king, he thought that the powers of the regent ought to be circumscribed.

Sir *W. Molesworth* said, that he must, as a friend to his country, advise the prosecution of such measures as would produce unanimity. If there was any right on the part of the Prince, it had never been urged. If the House had a right, there was no necessity for declaring it; and if they had no right, he did not see that entering a resolution on their Journals in their present circumstances could give them any.

Mr. *Drake* said, that if by laying down his life he could serve his country, he was ready to do it. It had been long his glory and his pride to support the measures in general of the right hon. and magnanimous gentleman who proposed the resolution, and he dreaded no political event so much as the change of the present administration. He was afraid he was now on the awkward side of the question, but he thought the resolution proper, as an ultimate decision of the claim of right.

The Committee divided on the motion, "That the chairman report progress," when there appeared, Yeas, 204; Noes, 268: Majority, 64. The second and third Resolutions were then severally put, and carried; and the House was resumed, and adjourned.

A List of the several Members who voted for and against Mr. Pitt's Motion.

For the Question.

Wm. Drake, jun.	Tim. Caswall
Wm. Grimston	Sir H. G. Calthorp, bt.
Sir R. Pepper Arden	Major Hobart
J. Galley Knight	J. H. Browne
Wm. Fellowes	Sir Alex. Hood
Benj. Lethieullier	Robt. Thornton
Nich. Bayley	Matth. Brickdale
Hon. J. L. Gower	Rt. hon. W. Grenville
Robert Mackreth	Edm. Nugent
Sir Thos. Halifax	John Call
Wm. Devaynes	Jos. Jekyll
Lord visc. Bayham	Philip Yorke
Sir Hugh Williams, bt.	Rt. hon. W. Pitt
Samuel Whitbread	Earl of Euston
Marquis of Graham	Francis Dickens
Lt.-col. Manners	George Gipps
Geo. Vansittart	Charles Robinson
Henry James Pye	John Christian
Sir Jas. Pennyman, bt	Walter Sneyd
Lord Westcote	Charles Boone
Sir Rich. Sutton, bt.	Sir R. S. Cotton, bt.
Matthew Montagu	Tho. Grosvenor
Hon. Chas. Stuart	R. W. Bootle
Col. Egerton	Geo. W. Thomas

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Geo. Fludyer
Lord Apsley
Richard Master
John Bond, jun.
Henry Banks
Sir Wm. Lemon, bt.
Sir Samp. Gideon, bt.
John Wilmot
Robt. Nicholas
Richard Hopkins
Henry Addington
John Rolle
Francis J. Brown
Robert Preston
Robert Shaftoe
Barne Barne
Alexander Irvine
Viscount Belgrave
Lord Charles Fitzroy
Thos. B. Bramston
Sir John Rushout, bt.
Chas. W. B. Rouse
John Baring
General Philipson
Major-gen. Bathurst
Major W. Williams
Philip Rashleigh
Hon. R. Edgecumbe
John Jas. Hamilton
Samuel Smith
Charles Edwin
Hon. capt. Berkeley
Thomas Master
Francis Baring
George Sutton
George Medley
Hon. Thomas Onslow
Robt. Thistlethwaite
John Robinson
John Stanley
John Dawes
James B. Burges
Rt. Hon. Tho. Harley
Visc. Grimston
Baron Dimsdale
John Calvert
Lionel Darell
Wm. Egerton
Sir G. Yonge
Jer. Crutchley
Phil. Metcalfe
Visc. Hinchinbroke
Sir C. F. Ratcliffe, bt.
Benj. Bond Hopkins
Geo. Sumner
Cha. Alex. Crickett
William Praed
Hon. Chas. Marsham
Sam. Thornton
Wal. Spenc. Stanhope
John Blackburne
Lord Arden
Jn. Peach Hungerford
Wm. Pochin
Col. Macnamara
Charles Lord Smith
John Hunter
Penn A. Curzon
Hon. Edw. Jas. Eliot
Hon. John Eliot
John Thomas Ellis
Thomas Kempe
John F. Cawthorne
Bamber Gascoyne
Sir Watkin Lewis
Geo. Aug. Selwyn
Nath. W. Wraxall
Hon. Thomas Fane
Robert Colt
George Rose
Matthew Bloxham
John Strutt
Earl of Courtown
Sir Philip Halles, bt.
Sir Thomas Rich
Hugh Boscawen
Wm. Young
Christ. Hawkins
Henry Drummond
Wm. Mainwaring
Lord Muncaster
Robert Wood
Major-gen. Rooke
Marquis of Worcester
Col. John Sutton
Lord Mulgrave
Sir Arch. Macdonald
Richard Vernon
Charles Brandling
Hon. J. T. Townshend
Thomas Brooke
John Barrington
Mark Gregory
Sir Jn. Wodehouse, bt.
Henry Pierse
Edwin Lascelles
Sir Jas. Langham, bt.
Hon. Henry Hobart
Robert Smith
Humph. Minchin
Sir W. Dolben, bart.
Robert Fanshaw
John Stephenson
John Pardoe, jun.
John Smyth
Wm. Sotheron
Wm. M. Pitt
Hon. Wm. Cornwallis
Sir H. Houghton, bt.
George Bowyer
John Aldridge
Thomas Johnes
Francis Annesly
Rich. A. Neville
Earl of Lincoln
Sir C. Middleton, bt.
John Henniker
Rich. Jos. Sulivan
Geo. B. Brudenell
C. W. Cornwall
Wm. Bellingham
R. Pole Carew
John Kynaston
Philip Stephens
Charles Brett
Hon. W. H. Bouverie
J. C. Villiers
George Hardinge
Earl of Tyrconnell
Geo. Osbaldeston
Hans W. Mortimer
John Drummond
John Peachey
John Hill
Edw. Phelips
John Fleming
James Amyatt
Henry Thornton
Paul Le Mesurier
Earl Gower
Sir Ed. Littleton, bt.
Sir Geo. Howard, bt.
Henry Cecil
Hon. Rich. Howard
James Gordon, jun.
Wm. Smith
John Langston
Sir John Rous, bt.
Jos. Grigby
Sir Jos. Mawbey, bt.
Lord Geo. Lenox
John Calvert, jun.
Alex. Popham
Sir Benj. Hammet
Sir Charles Kent, bt.
George Jennings
Sir Greg. P. Turner, bt.
Hon. Dud. Ryder
Hon. col. Phipps
Col. Boscawen
Sir Fras. Sykes, bt.
Thos. Farrer
Sir Robt. Lawley, bt.
Sir G. Shuckburgh, bt.
Clement Tudway
Sir John Scott
Hon. Thos. Thynne
Samuel Estwicke
John Madocks
Major John Scott
James Adams
Wm. Selwyn
Lord Herbert
Richard Gamon, jun.
Earl of Mornington
Sir H. Dashwood, bt.
Francis Burton
Samuel Smith
Robert Waller
Sir John Jervis, K. B.
Henry Beaufoy
Henry Duncombe
Wm. Wilberforce
Rich. Slater Milnes
Hon. Henry Fane
Lord F. Campbell
Sir James Duff, bt.
Pat. Home
Burnet Abercrombie
Earl of Fife
Col. Wemys
Arch. Douglas
John Hamilton
Lord Wm. Gordon
Sir Hect. Munro, K. B.
Sir A. Edmonston, bt.
Robt. Allard. Barclay
Sir Chas. Preston, bt.
Ilay Campbell
Rt. hon H. Dundas
Sir A. Ferguson, bt.
Sir J. S. Denham, bt.
Alex. Brodie
David Murray
Hon. gen. Murray
Sir Geo. Douglas
Mark Pringle
Major Moore
Lieut.-gen. Grant
And. M'Dowall

Against the Question.

E. L. Loveden
Wm. Chas. Sloper
P. C. Crespigny
Samuel Salt
Thos. Fitzherbert
Richard Beckford
Wm. Wrightson
John Cleveland
Abel Moysey
Earl of Upper Ossory
Hon. St. A. St. John
Wm. Colhoun
Visc. Fielding
Hon. Gen. Vaughan
Sir Gilbert Elliot, bt.
Wm. Clive
Henry Strachey
John Kentick
Sir Robt. Clayton, bt.
Sir John Morshed, bt.
Thomas Hunt
Viscount Palmerston
Sir Peter Burrell
Sir Charles Gould
Charles Gould
Thomas Whitmore
Thomas Scott
Charles Sturt
James Macpherson
Sir Sam. Hannay, bt.
Sir Herb. Mackworth
Earl of Lisburne
John Campbell
Rowland Stephenson
John G. Phillips
John Crewe
Sir John Frederick, bt.
Hans Sloane
James Dawkins
Thomas Lister
John Lee
Jas. C. Satterthwaite
Humphry Sanhouse
Sir Robt. Smyth, bt.

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Sir W. Molesworth, bt.	Wm. Weddell
John Walker Heneage	Wm. Clayton
Sir Hen. Fletcher, bt.	David Howell
Wm. Lowther	Edw. Cotsford
Sir W. W. Wynn, bt.	Col. W. Popham
Rich. Middleton	John Morgan
Lord Geo. Cavendish	W. Mostyn Owen
Edw. M. Mundy	Whitshed Keene
Lord G. A. Cavendish	Peter Delme
Edward Coke	Sir Jas. Erskine, bt.
John Pol. Bastard	Sir M. W. Ridley, bt.
Hon. George Damer	Sir John Miller, bt.
Wm. Ewer	Edw. Rushworth
Hon. W. S. Conway	Thomas P. Leigh
Hon. Andrew Foley	Sir Edw. Astley, bt.
Edward Winnington	Thos. Powys
Sir G. W. Vanneck, bt.	Sir W. Middleton, bt.
Sir John Eden, bt.	Charles Grey
John Tempest	Rt. hon. W. Windham
W. Hen. Lambton	Ld. E. C. Ca. Bentinck
Sir Chas. Davers, bt.	C. M. Pierpoint
Sir C. W. Bampfylde	Dan. P. Coke
Sir Roger Mostyn, bt.	Lord Visc. Malden
James Fraser	Hon. G. S. Conway
John Webb	Lord Chas. Spencer
John Harrison	Lord Robert Spencer
Dudley Long	Hon. Pereg. Bertie
Hon. Gen. Norton	Francis Page
J. Clarke Jervoise	Hugh Owen
John B. Garforth	Sir John St. Aubyn, bt
John Lowther	Rich. Benyon
Roger Wilbraham	Hon. Lionel Damer
Sir G. Cornwall, bt.	Lord Visc. Downe
John Scudamore	Wm. Joliffe
James Walwyn	John Macbride
Wm. Plumer	Mich. A. Taylor
W. P. A'Court	Sir H. Fetherstone, bt
Rt. hon. F. Montagu	Rt. hon. gen. Burgoyne
Sir George Collier	Wharton Amcotts
Earl Ludlow	Earl of Inchiquin
Sir Walter Rawlinson	Sir Grey Cooper, bt.
John Willet Payne	Wm. Lawrence
Wm. Evelyn	Gerard Noel Edwards
Wm. Middleton	Wm. Dickenson
Filmer Honeywood	Major Lemon
Hon. Hor. Walpole	Wm. Hussey
Lord visc. Duncannon	Sir Godfrey Webster
Thos. Stanley	Hon. Edw. Monckton
Sir G. Warren, K. B.	R. B. Sheridan
Ab. Rawlinson	Thos. B. Parkins
Sir Ed. Swinburne, bt.	Hon. Wm. Norton
Sir John Sinclair, bt.	Hon. Thos. Pelham
Hon. Henry Pelham	John Courtenay
Sir John Thorold, bt.	Rt. hon. R. Fitzpatrick
Chas. A. Pelham	Lord John Russell
Hon. R. L. Saville	Robert Vyner
George Anson	Robert Kingsmill
Lord Penrhyn	Hon. Hugh Conway
Nath. Newnham	John Calcraft
John Sawbridge	Robert Ladbroke
Lord Clive	Robert Burton
Richard P. Knight	John Ord
Clement Taylor	Sir H. Bridgman, bt.
Sir Peter Parker, bt.	Geo. Forrester
Visc. Melbourne	Rt. hon. C. J. Fox
Visc. Maitland	Lord Jn. Townshend
Rt. Hon. Edm. Burke	Sir M. Le Fleming, bt.
John Lowther	Lord Galway
Rt. hon. Welb. Ellis	George Skeene
John Purling	Sir David Carnegie, bt.
Visc. Middleton	John Anstruther
John Cotes	George Dempster
Orlando Bridgeman	Sir Robert Laurie, bt.
John Nesbitt	Alexander Stewart
Henry Penton	Col. Fullarton
Hon. Edw. Foley	Sir W. Cunynghame
Hon. col. North	Col. Dundas
Hon. Robt. S. Conway	John Shaw Stuart
Philip Francis	Fras. H. Mackenzie
Thos. Jer. Clarke	Sir Thos. Dundas, bt.

Tellers for the Question, Thomas Steele: Against it, William Adam.

Dec. 18. Mr. Pitt having moved the order of the day for receiving the Report of the Committee on the State of the Nation,

Colonel *Fitzpatrick* asked the right hon. gentleman, whether there would be any inconvenience in adjourning the consideration of the report till the next day? He added, that his right hon. friend Mr. Fox was obliged, by illness, to be absent; and he should imagine it would be the general wish, that no part of the important proceeding which they were engaged in, should be agitated in the absence of so considerable a member of that House, unless such delay was likely to create real loss of time, and serious inconvenience, neither of which, he presumed, would be the case if his request could be complied with, because there was every reason to believe that his right hon. friend could be present in his place upon the ensuing day, and the report might then be taken into consideration and voted, if the House thought proper, so as to be carried up to the House of Lords on Saturday.

Mr. *Pitt* said, it certainly was his wish to show every mark of personal respect to the right hon. gentleman, consistently with the urgency of public business; but where it was not consistent with the conducting of the public business, however he might regret the circumstance, he should think it his duty to refuse; but, as the only difference which adjourning the consideration of the report until the next day could occasion, would be the circumstance of having the resolutions, if voted, to carry up to the Lords on Saturday instead of Friday, the delay would not prove material; and if there was a chance that the right hon. gentleman could be present upon the morrow, it certainly would be desirable to wait a day; therefore, although he was sorry the House had been

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given the trouble of assembling unnecessarily, he would cheerfully acquiesce upon that ground.

The question of adjournment was then put, and carried.

Dec. 19. Mr. Alderman Watson appeared at the bar with the Report of the Committee on the State of the Nation. The question being put, "That the Report be brought up,"

Sir *John Sinclair* said, that he could most sincerely affirm, that, with regard to the first resolution, there was no individual in that House who felt more the calamity which had befallen the King and the country, than himself. In respect to the rights of the two Houses to provide the means for supplying the deficiency in the exercise of the royal authority, he must still be of opinion, that, it was not necessary for that House to make a declaration of its rights, on the slight ground of the expression of a doubt of the right of the Prince of Wales, stated in the speech of one of its members. If the right hon. gentleman who first expressed his doubts of the right of that House, instead of doing so, had brought forward a motion, declaring the Prince of Wales's right, no man would have more firmly resisted such a motion than himself. In the third resolution, there was something dark and mysterious; and whatever ideas he had of the character and abilities of the right hon. gentleman, who had called upon the House to declare their right, by the second resolution, which appeared to him to be unnecessary, the mystery in the third resolution demanded explanation. He gave the right hon. gentleman credit for too much manliness of mind, to suppose that he would endeavour to entrap that House, and fetter its future conduct, by any equivocal resolution, but, previously to bringing up of the report, he must beg to know what his reasons were for the wording of the third resolution, and also desire an explanation of what was meant by the Bill to be passed by the Houses of Parliament. He was afraid the two Houses were intended to be called upon to exceed their constitutional powers, and this was a time of too critical a nature, for any part of so very important a proceeding to be suffered to remain in the dark, or be subject to any kind of doubt. Every step in such a proceeding should be clearly understood, and maturely considered.

Mr. *Pitt* answered, that he wished not to bring forward any point in that House which was not clearly understood; and, therefore, the hon. baronet did him no more than justice, when he gave him credit for not having any intention, by any equivocal resolution, to entrap that House and fetter its future proceedings. In respect to the information which the hon. baronet wished to receive, it would be recollected, that he had, in his general opening of the resolutions, explained the whole of their object. With regard to the means of providing for the defect in the exercise of the royal authority, in consequence of his Majesty's unhappy incapacity, he had stated that, as in consideration of law, his Majesty's political capacity was entire, their first proceeding must be by the royal authority, which was by a bill, sanctioned by the concurrence of the King and the two Houses of Parliament. Now, though the necessity of the case did not oblige them to act without the royal authority, it did oblige them to provide the means of supplying the defect arising from his Majesty's indisposition, by issuing a commission under the great seal, appointing commissioners to open the parliament, in the name of his Majesty, in the usual form, and state the reasons for calling them together. This he conceived to be the only mode of proceeding that could be adopted consistently with the principles of the constitution.

Sir *John Sinclair* could not avoid expressing his utmost astonishment, that the right hon. gentleman should call the system of measures which he had explained to the House, a system consistent with the principles of the constitution, when it was contrary to law. Every gentleman conversant with the statute law, knew that it was, by the 13th Charles 2, declared illegal for the two Houses to legislate for themselves, or make laws without the King; and, by the same statute, the declaration that they had any such power, was pronounced high treason in the person making it, and he was liable to all the pains and penalties of a premunire. Sir John added, that the mode to be adopted appeared to him to be highly objectionable. The proper and simple mode of procedure was, for the two Houses to address the only individual that all mens eyes were fixed on, as the fit person to undertake the administration of government, in like manner as our ancestors had addressed the Prince of Orange, at the memorable æra of the revolution.

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Mr. *Powys* said, that his anxiety on the present alarming occasion was equal to that of the hon. baronet; although he believed the stating on what that anxiety turned, was premature in that stage of the business, he would venture to intimate, that when the report should be brought up, he believed he might undertake to prove that the right hon. gentleman's system was not founded either in precedent or law.

The report having been brought up, and the first resolution read and agreed to, the second was read, when

Sir *Grey Cooper* rose, and desired to be permitted to state, with great submission, a doubt which had occurred to him, whether the House, in its present limited and imperfect capacity, could, with propriety, and consistent with the order and regularity of their proceedings, agree to the resolution now under deliberation. He requested the members to consider and advert to the very peculiar and unprecedented circumstances under which they were assembled, and now sitting. They were one of the estates of the kingdom, assembled at Westminster, but not assembled in parliament; they were maimed and mutilated in their legislative functions by the present unfortunate incapacity of the King to exercise the royal authority. They had met on the 20th of November last, at the expiration of a period to which they had been duly prorogued by the commission from the King. On that day, no commission came to prorogue them to a farther time. The Speaker had arranged the proceeding on that occasion in the best possible manner. When he had taken the chair, by the desire of the members present, the minister opened to the House the deplorable cause which prevented his Majesty's servants from taking his pleasure with respect to a farther prorogation. The House paused, and hesitated in what they ought to do in such an exigency. By the ancient rules and principles of parliamentary proceedings, it was, as he conceived, irregular for them, in the situation in which they then stood, to do any business, or to make any order, other than for adjourning from day to day. But, upon reading a precedent of the 9th of September 1690, which bore considerable analogy to their proceeding in their present situation, the House assumed energy enough to adjourn for fourteen days, and to order a call of the House; and upon the ground of this precedent, and the very special circumstances of the case, they perhaps might be justified in making such order. They met again on the 4th of December, and were informed by the minister, that the same cause unhappily continued to prevent the servants of the crown from taking the King's pleasure, touching any act to be done, either for the farther proroguing parliament, or for issuing the summons for its meeting for the dispatch of business; and they were then informed, that there was a necessity for their immediately proceeding to supply the defect in the exercise of the functions of the royal authority. Since that measure had been recommended by the minister, and adopted by the House, they had, in all the steps which they have hitherto taken, acted under the authority, and moved by the mere impulse of that necessity; and if any part of their proceedings transgressed the clear limits of that necessity, and the direct course which it points out to us, it was, in his humble opinion, an act of self-constituted power, and of very dangerous tendency and consequence.

The point in question therefore was, whether the second Resolution now reported was, or was not, an act of necessity, for the purpose of supplying the defect in the legislature, by the King's incapacity. He contended, that the resolution declaring the right and duty of the House, was not necessary, because there appeared to him no real impediment or obstacle to their progress, which it was requisite to remove and clear away before they could act in their deliberative capacity. That there was no claim of right, no denial of their authority, no matter of which the House could, consistently with the gravity and order of its proceedings, take parliamentary notice or cognizance. At the Revolution, the Convention Parliament did not, in the famous Committee on the State of the Nation, declare what it was their right or their duty to do. It appears that Finch and sir Edward Seymour, and some other leading men at that time, delivered and maintained opinions, directly contrary to the principles on which the first resolution of the 28th of January, 1689, was grounded. But the grand committee proposed no resolution, to vindicate or establish their right against such assertions. They exercised their right, and did the noble work they were about; and they thought, that the doing the deed, comprehended in it, and incon-

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testibly proved both their right and their duty to do it.

Having submitted to the House these observations on the order of their proceedings, he requested the indulgence of their attention to some remarks upon the precedents on which the right hon. gentleman had laid the foundation of his resolutions, and particularly on the precedent of the 32nd and 33rd of Henry the 6th, which, being the only one touching the supply of the defect in the royal authority from sickness, bore with the most force on the present state of things and persons. The precedent had been much relied on; it had been proposed as a pattern for their proceeding in the great and arduous affair which a most deplorable necessity imposed upon them. They had been called upon by the great law authorities in that House to follow the example of their ancestors, and not to leave them in the lurch, by departing from the principles on which they acted. But, before they determined to follow the example of their ancestors, it seemed to him that they should consider what sort of persons those same ancestors were. He would venture to undertake to prove, by the irrefragable evidence of records, and the authentic history of the times, that, during the course of all the proceedings which collectively form that precedent, both Houses of Parliament were in the most abject and humiliated state of dependence on the power and will of Richard Duke of York, and the potent and formidable faction of the noble families who adhered to him and followed the projects of his ambition: and that every step they took every declaration they made, and every act they did or passed, were taken and done under the impression of immediate force, and irresistible influence. He desired to be permitted to state some facts anterior to the year 1454, in which that precedent principally arose, in order to introduce, with more regularity and clearness, the documents and evidence by which he intended to support his proposition. After the assassination of the virtuous Duke of Gloucester, the King's uncle, Richard Duke of York, became first Prince of the Blood, and presumptive heir to the crown. The impeachment of the great minister and favourite, the Duke of Suffolk, and his banishment and death, soon followed. Edmund Beaufort, duke of Somerset, succeeded to the favour of the Queen, the powers of administration, and the unpopularity of his predecessor. The Duke of York, trusting to the advantage which that unpopularity and the weakness of the government gave him, raised an army in the year 1452, and marched with 10,000 men from Wales to the gates of the city of London, for the purpose, as he gave out, of a reformation in the government, and the removal of the Duke of Somerset from all his power and authority. The manner in which he was foiled in this bold enterprise, of his being the dupe of his confidence in the promises of the court, and of his escape from the power of his enemies, are facts well known to all those who have ever looked into the history of this eventful period. He lived in retirement at his castle on the borders of Wales till the latter end of the year 1453. The Prince of Wales was born in October 1453: and, about this time, the king fell into a disorder in his mind, which rendered him unfit even to maintain the appearance of royalty. The queen and Somerset found themselves obliged by this exigency to yield, for a time, to the high power and connexions of the Duke of York. Somerset was actually sent to the Tower on the 13th of February, 1454. Richard was appointed, or, more properly speaking, appointed himself Lieutenant to the King, for holding the parliament, which having been first assembled at Reading, was, after several prorogations and adjournments, assembled at Westminster on the 14th of February. About this time, the famous earl of Warwick, the earls of Salisbury and Westmoreland, and many others of the Duke's followers, were admitted into the council, in the place of the former administration, and had the whole government in their hands. By their command and influence the Committee of Lords was sent on the 23rd of March to the King, who lay sick at Windsor, to take his pleasure upon certain questions stated in their commission. On the 25th of March, the Bishop of Carlisle, one of the deputed Lords, reported to the House, that they found the King in a state of perfect lethargy and insensibility. Then followed, on the 27th of March, the famous transaction of the nomination and election of the Duke of York to his first Protectorate, by the Peers spiritual and temporal in Parliament assembled without any participation or even consent of the Commons. Sir Grey observed, that he did not consider

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their appointment of the Duke of York to the first Protectorate, as in any respect proceeding from the free deliberation or choice of the House of Lords; but that it was dictated and compelled by the controlling and overbearing power of the Duke and his adherents. This conclusion was not founded on conjecture, or the mere authority of any historian or annalist; but, on the evidence of a record in the fifth volume of the Rolls of Parliament, p. 349.

In march 1454, Courtney, earl of Devonshire, had been tried for treason in levying war against the king in 1452. He had been acquitted by the Peers. On the 15th of April following the Protector came to the House of Lords, and complained, that by this indictment the truth of his allegiance was emblemished and disteigned; and in the presence of all the Lords, he made a solemn declaration, that the matter which touched his honour in the said indictment was false and untrue; for, that he was, and all the days of his life had been, and to the end thereof should be, a true and humble liegeman to the King; and that he never privily nor openly thought or meant to the contrary, as he called to witness God and all the Saints; and that the same to prove he hath been always, and now is ready, as a knight, against any person of proper rank, who shall presume to say to the contrary. He appealed to all the Lords present, and demanded that his declaration should be recorded. This certainly was the boldest falsehood that ever was declared to a House of Parliament; but the Protector knew the persons to whom he spoke. "Post cujus quidem declarationem factum et auditum, præfati Domini tam spirituales quam temporales una voce aierunt," "We knew never, nor at any time could conceive but that ye be, and have been, true and faithful liegeman to the king, as it belongeth to your estate to be—and so we now take, accept, repute, hold, and declare you." This record will serve to prove to demonstration, without any comment or observation, in what a wretched state of submission and prostration the whole House of Peers lay at the feet of the Protector. For the man whom they, with one voice, declared to be, and to have been, a faithful and loyal subject to the King, had, not two years before they made this dishonourable declaration, levied open war against the King, and marched with an army to the gates of his capital, and was, at the very moment, known to be contesting the King's title to the crown.

Sir Grey said, he would next show, by a record of unquestionable authority, that the House of Commons was, at the very same time, in an humble, helpless, and disgraceful state of dependance on the same power. He said, that he had cited the Roll of Parliament, touching the Lords, with some regret; but the case he was now about to lay before the House, "Animus meminisse horret, luctuque refugit." This was the famous case of Thorpe, the Speaker, which, by a singular coincidence of circumstances, happened just at the time of the duke of York's being appointed lieutenant of the King to hold the Parliament, and soon afterwards protector of the kingdom, and when the House of Lords had made their unanimous declaration of the duke's loyalty and fidelity to the king. The Parliament, which had been summoned to sit at Reading, was prorogued on the 2d of July 1453, to the 7th of November following, and on that day it was adjourned to the 11th of February 1454, and then prorogued to meet at Westminster on the 14th of that month. When the House of Commons met, their Speaker was in prison. It appeared that the duke of York, immediately after the first adjournment, sued Thorpe in the Exchequer by bill, and prosecuted him so close, though Speaker, and a baron of the Exchequer, in his own court, that between the 23d of October and the 11th of February, he got a verdict against him by a jury of Middlesex for 1,000*l.* damages, and 10*l.* cost of suit, and likewise a judgment, and took and detained him in the Fleet thereon, between this adjournment and the parliament's meeting, some few days before their re-assembling. He said, he had in his hands a book of the highest authority, which, together with the other writings of his learned and respectable friend, Mr. Hatsell, he begged leave, as an old member, earnestly to recommend to the diligent study of the rising generation. His remarks on this case of privilege, are made with his usual knowledge, precision, and temper. "Indeed the method of proceeding, as well as the expedition that was used throughout the whole of this case, appear at first sight very extraordinary. First, that the Commons should apply to the Lords, as well as to the King, for redress, in a matter in which their own privileges were essentially

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concerned. Secondly, that notwithstanding the opinion of the Judges most formally declared, "That persons arrested for any other cause than for treason, felony, or surety of the peace, or for a condemnation, had before their parliament, ought to be released," the Lords should adjudge that Thorpe, who came within none of these descriptions, should, according to the law, remain still in prison: and thirdly, That the Commons should so easily acquiesce in this decision, and immediately proceed to the election of another Speaker, and the whole of this transaction was but the business of three days, the 14th, 15th, and 16th of February. But when we compare the uncommon expedition with which this very important affair was hurried over, the judgment of the Lords, so directly contrary to the conclusion which ought to have been drawn from the opinion delivered by the chief justice; the command of the bishop of Ely to elect another speaker, signified immediately subsequent on the judgment, and, as far as appears, without any communication with the king, and the obedient submission of the Commons; I say, all these circumstances, compared with the very high situation in which the plaintiff, Richard Duke of York, then stood, being, as appears from the Parliamentary History, that very day, the 14th of February, appointed president in the said parliament, and himself present, and taking a part in the hearing of his cause, may be thought full to justify the opinion of sir N. Rich, who, when this precedent was cited in a debate on the 8th of March, 1620, says, 'It is a case begotten by the iniquity of the times, when the duke of York might have an overgrown power in it, and therefore wish it may not be meddled with.'" Would to God that this whole precedent, of which the case of the Speaker makes a deplorable part, had never again been meddled with, but had been buried in the Rolls of Parliament, and consigned to everlasting contempt and oblivion. Indeed, what our excellent historian Rapin remarks on this parliament, and the other parliaments about this time, is perfectly just, and well founded. He says, that the contrary resolutions of those assemblies, clearly show that they acted not with freedom, but were swayed by the events which happened before their deliberations. Their determinations are properly of no force, since they had not the liberty to judge according to their understanding, unless it be said, that their understandings always led them to side with the strongest.

Upon the reading of these records and observations, as the strongest and most searching evidence against this most inauspicious precedent, might he not venture to ask the House, whether some feelings of resentment and indignation did not rise in their breasts against those who have proposed this precedent as a pattern for their conduct, in one of the most momentous emergencies that ever presented itself to Parliament, and in which all the great energies of government, all the rights of the highest and most illustrious persons, and the first principles of the constitution are concerned; and at a time too, when, from the surprise and suddenness of the calamity, the Houses of Parliament were "inopes consilii." In the beginning of 1455, the King was somewhat recovered from his indisposition, and the Queen moved him to resume his authority, and to release Somerset from the Tower. The duke of York was forced to retire. He raised another army. He complained in his manifesto of the King's ministers, and demanded a change of government. The battle of St. Alban's was fought in the month of May, 1555. This was a summary way of changing administration; for, they were all killed in the battle, and the King was taken prisoner. It is not necessary to state, that, after this great event, the unfortunate King was restored to the appearance and forms of royalty; that the duke of York and all his adherents were declared innocent of any treason against the King; that he was reinstated in the Protectorate, at the instance of the very Commons whose Speaker he had imprisoned; and that upon a reverse of fortune, he was, as it was called, exonerated of the office, and of all his power. These were all parts of solemn state farces exhibited to the people at that time. It was not necessary to state, that from the period of the battle at St. Alban's, the whole kingdom was deluged with blood, and involved in confusion, by a most cruel and ferocious civil war, for the course of thirty years. From the very threshold of this disastrous period, the precedent, on which he had been so long troubling the House, was taken, and raised from the dead, for the purpose of doing what the House of Peers, who elected the duke of York, declared they would not do, prejudice my lord the prince. The pre-

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tensions of a Prince of Wales to the regency were in the last debate admitted by the first legal authority in the House. The Attorney-general had declared it as his opinion, that though the prince had no right, either by common or statute law, to assume or to exercise the office of Regent, without the appointment of Parliament, yet he owned that his pretensions to that appointment were so strong, and so unquestionable, from his high station and nearness to the Crown, that those pretensions could not be denied or rejected, except for such causes as would well nigh justify a bill of exclusion, or, in other words, for such causes as would exclude him from the Crown.

Mr. *Martin* said, that he did not remain in the House during the whole of the last debate, because he found himself too much exhausted; but he made no scruple to declare, that had he stayed the debate out, he should have given his vote for not leaving the chair, because it appeared to him that the Resolution was a very proper one. In the course of the debate in the Committee, the right hon. gentleman over the way (Mr. Fox) had talked of a change of administration. What had passed that day, a friend of his had observed to him, brought to memory a scene in Shakespeare's play of Henry 4, where Falstaff reckoned upon what would be done for him and his associates, when the Prince should come to the crown, which was then daily expected, and was assigning places of dignity and character to the most deserving of his friends. Mr. Martin said, he hoped if the right hon. gentleman came into office, he would not provide for all who had claims upon him, but would recollect that it had been urged against the right hon. gentleman near him, by some of those who most advised him, that his companions, were not all equally well approved. He was persuaded, that Mr. Fox had too noble a mind to be swayed by avarice, or any of the meaner passions; he thought, however, he had too much ambition, which inclined him to temporize, for the sake of getting into power. Nothing but that could have induced him to come into that odious measure the coalition; and in like manner, on the present occasion, he ascribed the conduct which the right hon. gentleman had pursued, to the same motive. Had not the fact been so, he was persuaded the right hon. gentleman would not have maintained doctrines so incompatible with the usual language held by him upon constitutional points. Mr. Martin said he could not help saying, that Mr. Pitt had proved himself a good and virtuous minister. In the very delicate situation in which he had lately stood, his conduct had been consistent, steady, and noble; in short, such as, in his opinion, entitled him to the praise and confidence of the public. He declared, he believed the right, hon. gentleman was on his retreat, and therefore he was glad to take that opportunity of speaking as handsomely of him as possible.

The *Attorney General* again contended, that the common law knew no such person as a regent. The common law only recognized three descriptions of governors of kingdoms; and these were, Kings, *Custodes Regni*, and King's Lieutenants. The *Custos Regni*, was a *Pro Rex*, endowed with limited powers, which had been occasionally enlarged, and the power of bestowing benefices, and other specific exercises of authority given; and the Lord Lieutenant of Ireland, was a living instance of the nature of the office of a King's Lieutenant. With regard to the King's preserving his political capacity entire, notwithstanding his illness, he said, he should err with lord Coke, with Chief Justice Hale, Mr. Justice Forster, and every other great legal authority, if he did not maintain that doctrine. In answer to an hon. baronet, he must beg leave to tell him, that if he would once more look over a book, which he had often consulted, Mr. Justice Forster's Treatise on the Principles of the Constitution, he would find that he was mistaken in one part of his argument. As to his account of the transactions in the reign of King Henry 6, it seemed sufficient to answer, that at that time it was the law of the land, that there was no privilege, nor was it till the reign of Elizabeth, when a statute was passed expressly for that purpose. The proceedings, therefore, that the hon. baronet had so strongly reprobated, with regard to the appeal to the judges, in the case of the detention of the Speaker of the House of Commons, who had found that privilege would lay in the Speaker's case, and the reference of the judges opinion to the House of Lords were not so extraordinary; but let them be ever so worthy of censure, let Richard duke of York be ever so great a tyrant, it served the better to support his reasoning, and the more to strengthen and confirm the precedent

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selected from that period; because it proves, that in the worst of times the transaction which the precedent stated had been constitutionally regular. To argue against all precedents, selected from troublesome times, was a sort of reasoning that he lamented; and to pronounce that no precedent taken from such times was to be relied on, appeared like proceeding to the length of declaring that the Magna Charta ought not to be considered as an act of parliament.

Mr. *Windham* declared, that if the hon. gentleman who spoke last but one had not considered what he had said, as of high consequence in his own opinion, he surely would not have come forward with assertions altogether unfounded, and for which he had assigned no reason. He knew not whether there was any mystery to be derived from what the hon. gentleman had advanced, since superstition assigned to animals of no great estimation, the power of revealing secrets. Macbeth told us, that the greatest perils had been discovered by the screaming of magpies and choughs. As an individual member of the body of men, whom the hon. gentleman had lashed and censured, Mr. Windham protested, that he trembled to stand in the hon. gentleman's presence. Thus much, however, he would venture to pronounce, that, in point of rank, family, fortune, splendid talents, known character, and tried abilities, there were not in the kingdom their superiors. The hon. gentleman, therefore, must suppose some peculiar consequence to be annexed to his opinion, or the House never would have heard the body of men he had been describing, humbled as they had been by the hon. gentleman; but as he would not on that, nor any other occasion, follow the hon. gentleman's example, he would quit all mention of his right hon. friend, who had been so peculiarly distinguished, as to have been made the special subject of a debate, and not only of a debate, but of a resolution of that House. Having thus alluded to the adjournment of the House the preceding day, on account of Mr. Fox's illness, he proceeded to deliver his opinion on the topics stated and maintained, on the different sides of that House. He said, he concurred with the doctrine of his right hon. friend, in its fullest extent; that he had intended to have delivered his opinion upon it to the Committee, but had been so much exhausted, that he was obliged to forego his intention; that he was glad he had done so, for he had been able since, more maturely to consider the subject, and he was, by reflection, confirmed in his opinion. The true jet of the argument was to be drawn, not from written law, not from precedent, but it depended upon the plain, broad ground of analogy, analogy too clear to be mistaken, and too forcible to be resisted. Not to consider the right of the Prince of Wales to the regency as an hereditary right, was to go the length of maintaining that the two Houses had a power of disposing of the constitution. He said he rather judged the goodness of a precedent by its consequence, than by the precedent itself. According to the doctrine laid down, a foreigner might justly observe, that whenever there was occasion for a regent, the two Houses of Parliament stepped in, and gave away the country.—With respect to the various arguments that had been advanced, as to what the law was concerning the case in point, he should not hesitate to declare, that, in his opinion, one of the surest ways of determining what was the law, was, by determining what ought to be the law. He adverted to the supposed motives of the minister, and said they well knew what he was working at the bottom, but men were not looking at the consideration they ought to look to, but were making it a personal question. They had been told properly enough, that they should not consider the virtues of the great personage, who had the strongest preferable claim to the regency, as any argument, and yet, if the virtues of his Majesty (which all must readily agree) were held out as reasons for limiting the powers of the regent they ought to take in the virtues of the other personage as the security for his Majesty's returning to the government: but it was thought that the custody of the King's prerogatives were more secure in the hands of the parliament, than in those of the heir apparent. Mr. Windham took notice, that in one of the regencies, the latter of those in Henry 6th's time, the Duke of York was made regent, because he was presumptive heir to the crown, and thence he argued, that the Prince of Wales, being heir apparent, had a better plea, and the public had a better security for his taking due care of the interests of the kingdom, as no other person was so much interested in its prosperity. He reprobated the project proposed in the third resolution, and declared, that his mind revolted at the idea

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of a coarse fiction, for so it was, let what would be said of it. He protested, that for one, he did not place great reliance on the reasoning of lawyers upon such subjects. Gentlemen of that profession were not always the best writers on constitutional questions; their professional knowledge perverted their opinions on such topics, because, when they, were under discussion, from their legal knowledge, they were always flying to legal analogies. He did not like those maxims which could not be comprehended, nor did he admire precedents drawn from times of such tumults and confusion, as those that distinguished the period from the appointment of the Duke of York to the regency in the latter part of the reign of Henry 6. The fatal consequences that followed, were in his opinion, a sufficient condemnation of the precedent.

Mr. *Christian* was sorry the question was brought forward at all, but as it had been, he thought it was the duty of that House, to assert its rights, and decide upon them, for the benefit of posterity. He was not, however, prepared to go the length of the third resolution, and begged not to be considered as precluded by his vote of Wednesday, from dissenting with the Chancellor of the Exchequer, on that question. After the glorious effects of the Revolution, he conceived that we ought to act in the same way, to declare the Prince of Wales regent, as our ancestors had declared the Prince of Orange king, and to address his royal highness to accept the regency. He did not think it right to place any restrictions whatever on the prince while acting as regent.

Mr. *Hardinge* said, that a more interesting point of constitutional right had never made its appeal to either House of Parliament, since the virtue of our ancestors, and the genius of the government, accurately understood, a century ago, had prompted the Lords and Commons of the realm, to pass a law without a king;—and a law, which, as he had always read it, had put upon living record this principle; "That whenever the supreme executive hand shall have lost its power to act, the people of the land, fully and freely represented, can alone repair the defect." That in moments like these, on the one hand, it would ill become the most unquestioned abilities and weight in the House, to risk improvident assertions and hasty opinions, but that, on the other hand, there was no capacity so mean, if it ever took part in a debate, that could be justified in withholding from the public an opinion deeply considered, and freely, though temperately, asserted. The right of appointing a regent had been challenged, and was at issue. It could not be suppressed, unless the representatives of the people would abandon their trust. In other words, either the right of the heir to be the regent was to be admitted or disproved. In every other view, he, for one, should have been determined against the Resolutions which had been moved; because his judgment had always been, that such declarations of constitutional right should be cautionsly forborne—the constitution should act; and it should not speak; or it should speak only in the safe record of its measures as the occasion called them forth, and limited the extent while it animated the energy of those great principles to which alone we can trust in the hour of conflict and peril.

That as the particular necessity of discussing the right had alone compelled him to act against these general feelings of his mind, he would use the liberty of impressing upon the House all the circumstances which had produced and accompanied what he called in substance a direct plea to their jurisdiction, though not in the form of an authentic and regular claim. No sooner had the King's personal incapacity for his regal office been authenticated by a Report from the Committee, but the right hon. gentleman (Mr. Fox) rose in his place, and having stated the investigation of precedents to be a waste of time, in a very solemn and earnest manner asserted the right of the heir apparent as built upon his father's incapacity; asserted it, as a right which he had no doubt of establishing, and which could neither be disproved nor withheld. Besides the talents, the political rank and character of the right hon. gentleman, he had himself added importance to his other claims, by telling us that he was in habits of confidential intercourse with his Royal Highness, on whose behalf he had asserted this right. Nor was it the solitary opinion of an individual; for when stated by him it was received with loud acclamations by his friends, of whom it would be injurious to say, that any but ingenuous motives of real assent could have prompted them apparently to approve, and in so public a manner, what their favourite statesman had asserted. The opinion was new;—it

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went forth to the public, and created an anxiety for the event. If in the terms it had been misconceived (as the right hon. gentleman complained) in the argument and obvious tendency it had been correctly understood—but well, or ill reported, it reached a noble relation of his (lord Camden) who had long known and revered the land-marks of the constitution, who had proved his good faith to them, and who would have sunk his character in the public estimation if he had not caught with avidity the first moment which the favour of any public audience could open to him, of entering his protest against what he thought fatal to those principles, in which he had been educated, and which it had been the peculiar pride of his life to sustain. Fortunate for the country at least had been this indiscretion (if it could be so called in such a character and for such motives) because it had induced the right hon. gentleman to favour them with another statement of his oracle, fundamentally the same as it had been understood, but in the guards put over it even more defenceless than when it relied upon its own strength. So guarded, it became again the object of general discussion, and could not but have reached the heir apparent; who had, as report informed them, disclaimed all intention of claim, but had never disclaimed the right. His right hon. friend (Mr. Pitt) had early announced a formidable question to the delicacy of the House, viz. Whether it might not be expedient and constitutional to impose limitations upon the regal power in the regent's hand? a point upon which he was not then ripe to conclude; but would assume, for argument sake, that he was of either opinion. If he were an advocate for the limitations, he could not be so base as to risk the usurpation of right for the sake of policy at the expense of such a personage and such an interest: if, on the other hand, he should be averse to the limitations, he could not refuse to his own argument the advantage-ground of proving that he could not impose them without an absolute violation of inherent right. In all these views it became necessary for the House to discuss the right, and close the doubt. He had been told of civil tumult and a warfare between the two Houses, but he saw no symptoms of the kind, and if they existed, nothing would be more likely to allay them than a cool discussion of the subject; but whatever might be the risk of those extremities which had been threatened, he would not forget that if such topics had prevailed, or could even have been heard in 1688, we should not at this hour have known a House of Commons possessed of all its natural energy and vigour.

He would now state with distinct accuracy the right asserted for the heir apparent. It was this, "That, sitting both Houses of Parliament, from the instant of the King's personal incapacity for his office declared by the two Houses, a right attached upon the heir apparent of perfect age, and labouring under no disabilities, to exercise all the regal power, just as if it were a natural demise during the continuance of the incapacity, but a right which could not act without an adjudication by the two Houses." He would combat first, the fences and outworks of this new and alarming doctrine. First he would ask what the right hon. gentleman could mean by so qualifying such a constitutional right as to make all evidence of the fact which gives rise to it wait for a declaration by the two Houses of Parliament, after authentic proofs had been established? He would then ask, why after the declaration so obtained, the right was further to wait for the ceremony of a judgment upon it? Would the heir apparent wait for it if his father were no more? Would the constitution bear the idea that he should wait for it? The right hon. gentleman had said it was like private rights; which, though clear of doubt, waited for the decision of a court. What rights were these? If a certain event attaches a right upon me, whether of mere interest or of interest coupled with trust, or both, do I wait for a court? No, it is the act, or (as lawyers express it) the devolution of law, which gives me at once the right with every incidental advantage of it. The right hon. gentleman had said, "it was like the election of a member of parliament:" a very unaccountable simile! There, a candidate eligible, an election free, and a majority of good votes, by the law of parliament, gave the seat; a return is only the judgment of the officer that such facts have existed — a judgment, which is defeasible by an appeal within a definite period—but in the mean time the candidate who is returned, has complete use of the right. How does this apply to a case, which, as it has been argued, acts upon a right clear of doubt, and precludes the very suspicion of a contest? As far as there is the least analogy between the

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two cases, that analogy is against the argument; for till the right is defeated it has every power to act upon that mere presumption of it which throws upon the adversary all burthen of proof.

As to the substance of the doctrine, a few words, plain and clear as the sense they contained, would give a death's blow to it. First it was an ancient and wise maxim of our law, that regal power had no incapacity in a politic view, and therefore any right assuming and claiming to act upon such a defect, could not be legal —it must, if any, be a constitutional right. If it were a constitutional right it would appear upon the Journals of parliament, or in the history of Great Britain. Looking there for it in vain, and finding no trace or dream of it, he could say (and it would be enough) it is no constitutional right in the heir apparent, and the right not being in him (or "a fortiori," in any one else, upon the footing of independent claim) can only be delegated by appointment; and if an appointment is necessary, where can it originate, but in the fountain of regal power itself (in this government); where, but in "all the estates of the people of the land!" memorable words used at the revolution, and well adopted by his right hon. friend. But no such argument of resorting to the people for want of any other appeal was necessary here; as the constitution had (in characters which "he that runs may read") made provision for the afflicting event of the King's present incapacity, in a way at once consistent with popular and regal weight in the balance. We should be miserable pedants indeed, and "more of schoolmen than of statesmen" (the right hon. gentleman's own phrase), if it were possible for us to adopt a distinction between the several kinds and the several causes of "total incapacity." Every case which had that one leading feature was a case in point for every other, distinguished by the same common mark —the child upon its mother's knee— the second infancy of dotage and the disability of an ideot, who is a perpetual child — every disabling visitation of illness, whether from lethargy or a paralytic stroke, from weakness of nerves or spirits; —every derangement of the intellect, whether it be the delirium which a fever has produced, or with no assignable "data" for it—every case of disabling absence, captivity, or duress—and the famous precedent of regal forfeiture in 1688—were all of them direct in their analogy to the duties of the House at this moment. In the debate at the Revolution, all the incapacities arising from accident (and this of delirium by name) were put in argument; and it was in that argument assumed, that no regent existed of right, but the nation had the sole power of appointing him: the fallacy of the tories lay in this; to make the forfeiture pass for a mere suspension, like that which infirmity would produce, during the life of James 2, so as to let in his heirs upon his death. As to infancy a singular fact occurred which marks the jealousy of our ancestors against encroachment upon the regal office in any but a regal hand. Henry 6 gives his name to the averment of his own incapacity, and assents to wise laws, which presume that he has no power of assenting to them, or of understanding them. In other words, the name is regal but fettered, and without any will or discretion. In all these cases too, that name is used for the original formation of the regent, but the energy of the act is referable to this, and the other House of Parliament. Without a detail of precedents (which are most numerous in the case of infant kings) he would mark to the House two or three material facts which apply to every one of them. First, there is no instance of a sole regent or protector (though next heir) without fetters of some kind upon his power. In the second place, not a single regent or protector is to be found self-appointed, or accepted upon the footing of claim. Thirdly, there is but one who dreamt of this claim as heir; the duke of Gloucester in the time of Henry 6; and what became of it? In as able a record as the annals of Parliament can boast, he is told that "his claim is against precedent, usage and law."

He would now touch upon the two Regency Bills, and was ready at once to put the issue of the heir apparent's right upon those two records. In the 24th of George 2, the King sent a message to the House of Commons, in which he told them, "nothing would so much conduce to the preservation of the Protestant succession in his family, and of the religion, laws, and liberties of the kingdom, as the making proper provisions for the care and tuition of the person of the successor to the Crown, and for the regular administration of the government in case that successor should be of tender years, by means whereof the safety and princely

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education of the minor king might be secured, the public peace and good order maintained, and the strength and glory of the Crown of Great Britain suffer no diminution. For which reasons, out of tenderness for his family, and for all his faithful subjects, he earnestly recommended this weighty affair to their serious deliberation, and proposed that when the imperial crown of the realm should devolve upon any of the issue of his son, the late Prince of Wales, under the age of eighteen years, the Princess dowager of Wales might be guardian of the person of that successor, and regent of these kingdoms till he should attain such age, with such powers and limitations as would appear expedient for the said important purposes." Upon this proposition a bill passed, and he would read a part of its recital, which is in substance an answer to the King in a legislative shape. "We have taken this weighty affair into our serious consideration, and being thoroughly convinced of the wisdom and expediency of what your Majesty has recommended upon this important occasion, are firmly and zealously determined to contribute every thing in our power to the preservation of the Protestant succession as settled by law in your royal family, &c. &c." Having thus recited, they enact, "That (in the event of this minority, and as long as it shall continue, the dowager Princess of Wales shall have full power and authority, in the name of the successor, under the title of regent of the kingdom, to exercise and administer the regal power, and execute all prerogatives, but in such manner, and subject to such conditions, restrictions, limitations and regulations, as therein after specified." The Act proceeds to appoint "a council of regency, who are to be fourteen, and several portions of the regal power are withheld from the regent, if she cannot obtain the consent of the council thus appointed. At the head of this council is placed the Duke of Cumberland; but with no power beyond that of any other counsellor, and the King is to nominate four in addition to the ten who are named by an instrument which is never to be opened in his life-time."

He would ask, what became of the next heir who had then attained his full age? If the right hon. gentleman is right, he was insulted as well as degraded by an upper seat at the council, who were to assist the regent—that regent the usurper of his claim. It might be said, the legislature was equal to such a degree of control over that, or any right—but this was no answer to another question. Did the legislature dream of controlling any right whatever? and will the idea be endured of a silent purpose, in a legislature like ours, to control such rights as these? —or will it be said, that in those days the parliament were either basely insidious, or grossly ignorant? was there no debate? The right hon. gentleman over against him (Mr. Ellis) was present, and perhaps had an ample share in that conflict. A favourite objection was, that a sole regent was better than a regent fettered by a council—and would not the heir then have said (if the right hon. gentleman was correct) "I am that sole regent by the constitution, and the nich can only be filled by me."—Who was that heir? The duke of Cumberland, in the most brilliant period of his deserved popularity, and in close habits of political union with Mr. Pelham the minister; as honest a minister, and as honest a man as ever breathed,—a whig minister too, and supported by the whigs. The hon. gentleman over against him (who are now the only whigs that are left us)would agree with him in approving their counsels and measures in 1751, when this Bill of regency passed. Was it an age ill-furnished with parliamentary abilities and constitutional knowledge? Are the names of lord Hardwicke in the House of Lords, and of Mr. Murray here, of no account? —The next regency bill, passed under different auspices, and even more vehemently opposed (with an outcry against a pocket regent), marks the same dulness in those who debated it; for one party assumed, and the other admitted, that no heir presumptive had, in that moment, any right whatever; and the duke of York, then of age, was only one of the regents whom the King was to name if he chose it.

As to the illness of Henry 6, what the hon. baronet had observed of the duke of York in those days, recommended this precedent instead of depreciating its value, upon his own argument; for if it were true that the duke of York had so much ascendancy, it is the more striking that even he could not beat the adversary out of those intrenchments, or that he found a reverence for the forms of the constitution so rooted in the people at large that he assumed an equal reverence for them in the mode of his own tyranny over them. In the captivity of Richard 1, and the ab-

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sence of Edward 1, the regal name was used without any regal will, and the appointment of a temporary substitute was elective in the two Houses, or in those who had a similar power.

But he would hasten to the revolution; for though he saw no trace of it in the report of the Committee, he had formed an opinion respecting it, which as it was new to the argument of this debate, though obvious to his own mind, he would state, in hopes of seeing it either adopted, or confuted if it was wrong. It struck him that nothing was more apposite in some of its principles, if clearly explained, than what the Convention of those days thought essential to their duty and right. The incapacity there was total as it is here, but the cause of it having subverted the political as well as the natural capacity, a king was elected instead of a regent, and the heir apparent set aside. In that case the form as well as the energy of the Act was in the two remaining branches of government, because they could neither find a king who united the politic and the natural capacity, nor could give life to the exercise of the regal office divested of the regal influence, by using the name of a king whom they no longer owned for any purpose whatever,—but their principle was correctly the same as ours at this moment. It enabled them, and gave them an exclusive power, to repair the defect of the regal character in such a mode and by such a degree of exertion on their part, as the immediate pressure of that exigency required. The noble lord in the blue ribbon (who never had in his life displayed more ingenuity or eloquence than upon the former debate) had surprised him when he talked of the Revolution; a period in our history for which, in general, he was persuaded the noble lord had an enthusiasm equal to his own; but it so happened that in every one of those facts which the noble lord had marked as prominent features of that event, he was completely inaccurate. He had said, "that our ancestors, the Lords and Commons of those days, debated no abstract propositions, but stated a fact, proceeded immediately to appoint William Prince of Orange their king, and passed no law, before he was able to refuse it, by his negative, if he had been so advised, or disposed." The authentic history was the direct reverse in every one of these particulars. 1. The two Houses debated some of the most refined and (he would make no scruple to add) childish differences; nor could a more abstract proposition be imagined than what passed after much controversy into that complex vote which gave us our liberties; yet such was the condition of parties in that awful moment, that lord Somers and the other patriots of the day, found it wise to discuss, like schoolmen, these fleeting shades of difference in theory and speculation, for the sake of a most enlightened object, never out of their sight, but which could not else have been attained without civil tumult. 2. Instead of electing at once King William, they did not elect him at all, as their sole king, but united him in his regal office to the daughter of the ejected prince, dividing the government into the active administration of the husband and the regal name of the wife, essential to every act of executive power. 3. "Passing no law," as the noble lord had assured us, they had only taken up the whim of a little playful resolution, a mere spirit of legislation, concerning the inheritance of the monarchy as connected with both sovereigns; which he would read. Mr. Hardinge then read these words from a paper in his hand: "The Lords spiritual and temporal and Commons, assembled at Westminster, do resolve, 'That, William and Mary Prince and Princess of Orange, be, and be declared king and queen of England, &c. &c. to hold the crown and royal dignity of the said kingdoms and dominions, to them the said Prince and Princess during their lives and the life of the survivor, and that the sole and full exercise of the regal power be only in and executed by the said Prince of Orange, in the names of the said Prince and Princess, during their joint lives; and after their decease to the heirs of the body of the said Princess, and for default of such issue to the Princess Anne of Denmark and the heirs of her body, and for default of such issue to the heirs of the body of the said Prince of Orange.'"

Reading as he often had read, the argument of that famous debate, he could not stir in it without marking these two propositions: "that when the regal power could no longer act in the execution of its trust, the national voice in its representative character could alone speak for the genius and spirit of the constitution, could alone animate the machine and make it resume its interrupted course by such provisions and limitations, of a more or less complicated nature as the exigency

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might seem to require,—and that (in the next place) no conception of a regent is known but as the object of this national appointment in the exercise of an absolute and pure discretion." It was argued then by the tories just as it had been argued now by the whigs over against him, that by electing king William the patriots had made a new constitution, and substituted an elective monarchy in place of an hereditary one. It was answered by Mr. Serjeant Maynard, that no such effect would arise from this extraordinary but indispensable appointment of a new course in which the hereditary line should in future proceed. Upon the same principle, though in defence of a measure specifically different, I answer now (said Mr. H.) to those who argue that by electing a regent we are to set aside the heir apparent's hereditary right; we do no such thing, but we supply a defect in the actual exercise of an hereditary right, and I will use the words of Serjeant Maynard, which are directly applicable to this view of the debate in 1788, as well as at the Revolution: "Where there is a defect in him who is to exercise the regal office, the nation is to repair it. The Commons apprehend there is now such a defect, and they do not convert this crown into elective by repairing the defect in their choice of another instrument for the execution of the same trust. Our constitution and its principles are still the same."

He would close his argument with two or three words upon the mode of enabling the regal power to be assumed, which one of these resolutions pointed out. It was called, "an assumption of the executive power," though it feared even the semblance and exterior of any such encroachment, by making provision that a measure essential to the public safety in the appointment of a temporary substitute should have the form of the regal assent, while the king's political capacity was perfect; an assent, he owned, without a dissenting power, and a name of the regal hand or voice, but without the will.—This had been called "a bungling and coarse fiction," but he would not, for one, be ashamed of adopting it in preference to the form of a legislative appointment used by the two Houses alone; though in substance he agreed it was the same thing, as to the right of making an effectual provision for the defect; which right he considered as residing in those alone with whom the regal power itself originated. For these reasons the measure proposed, as to the right of repairing the defect, as to the necessity of declaring it, and as to the mode of asserting it with effect, had obtained his deliberate and cordial assent.

Mr. *Anstruther* begged leave to contradict the assertion, that James 2 was a king to the end of his life. He must also attack the third resolution as subversive of the principal resolution. The Chancellor of the Exchequer had thought proper to declare, that every man in his Majesty's dominions had as good a right to the Regency as the Prince of Wales; but this was a doctrine which, for his own part, he must reprobate and condemn. Every situation in society had certain duties attendant upon it, but the country had an interest in the person of the Prince of Wales, which they had not in any other person, whence the Prince was in an especial manner protected by the laws, and had many peculiar rights and privileges, and whence resulted his Royal Highness's right to the Regency of this country. The monarchy of Great Britain was hereditary only on account of its public utility, and that public utility was equally dependent on the Regency being hereditary; if we made it a matter of appointment, we made it a perfect matter of canvas, and might have one regent appointed by the House of Lords, and another by the House of Commons. After mentioning the Prince's strict right in Scotland, Mr. Anstruther admitted that it was not quite fair to pursue the analogy of the Prince's rights to private estates, however it might apply. He returned again to the third Resolution, the meaning of which, he contended, was, that the two Houses were to forge the great seal of England, and issue out a commission to pass a Bill legislated by the two Houses. He asked, would a bill so issued have his Majesty's consent? Most undoubtedly it would not; their own resolutions on the table would give the lie to it. And if they could pass one bill, they might pass more. They might continue forging the great seal for a day, a week, a month, a year, and, if they pleased for ever. If this could be so easily done, and was to pass for law, why had not our ancestors, at the period of the Revolution, dragged the Thames for the great seal, and done the same as was meant to be done at present? They might, by the help of the same sort of forgery, have kept the kingly power in their own hands, and have had

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nothing to do with William and Mary. If it could be done in one instance, it might be done in any; they might lop off one branch of the prerogative, and then another, and so continue the amputation by degrees, until no prerogative remained. He reprobated the precedent in Henry 6's time, and censured the mode of passing the Bill proposed in the third Resolution. He called it a clumsy, absurd, wicked project, and said, that the commissioners would be such perfect puppets, that they would have no voice of their own of either assent or dissent. He recapitulated the cases of Edward 3, Richard 2, and Henry 6, and observed, that what had been called a Council of Regency in the latter's reign, had been quite the contrary. The council consisted of five of his brothers, and the rest were his near relations. A learned friend of his, in justification of precedents taken from troublesome times, had said, that if they condemned those precedents merely upon this account, they might as well declare Magna Charta was no act of parliament. He should be sorry to say that Magna Charta was no act; but he had ever considered Magna Charta as an object of admiration, and reverence on account of its intrinsic merit.

Mr. *Beaufoy* said:—In this late hour of the debate, and still later of the argument, I shall trouble the House with but few remarks; nor should I have troubled them at all, if an hon. gentleman (Mr. Windham) had not deduced, from maxims unmentioned before, conclusions which I consider as erroneous, and to which no reply has hitherto been made. The House has repeatedly heard the declaration, that the Prince of Wales has the same hereditary right to the full exercise of the powers of the regal trust, that he would have had in the case of an actual demise of the Sovereign, and you are no strangers to a similar declaration, which a person of judicial rank is understood to have made elsewhere; but the hon. gentleman is the first who not only endeavours to dissuade you from rejecting these injurious assertions, but whose arguments against that rejection are founded specifically on the maxim, that the probable consequences of any proceeding are the best criterion of its merits. Does he then really conceive, that if you do not expressly and solemnly contradict the doctrine which has thus been held, no inconvenience will follow to your own dignity, none to the order of the constitution, none to the well-being of future times; or, can he think that any thing less than such a contradiction will be sufficient to vindicate your essential rights from that denial of their existence, which not the leader of a party alone, but one of the most eminent of the judges, professing to speak the language of the law, has deliberately and solemnly pronounced? Power is upheld by opinion; I cannot, therefore, acquiesce in the insidious flatteries which assure you that no assertions, either of statesmen or judges can be injurious to your privileges—that declarations of rights are inconsistent with dignity—that they imply a previous doubt, and that they weaken while they profess to support. I dread the disguised hostility of this seeming zeal for your honour; for who are the persons who hold this language? Are they not the very men who have declared, that you have no power but that of acknowledging in the Prince of Wales an independent pre-existing right; that the ceremony of investment is all you have a pretence to claim; and that the authority of a court baron, which, on proof of the heirship, must admit to the inheritance, is the whole that you possess? God forbid, that such advocates for the honour of the House of Commons should ever be taken for her guides! for who does not see that if their counsels were followed, some of the most distinguished members of the House may soon be involved in the consequences of legal guilt? Has any man asserted that the two Houses should impose limitations and restrictions as the conditions of the Regent's power? That man, we are told, is guilty of direct and deliberate treason; for all such limitations and restrictions are acts of legislation; and he who advisedly declares that the two Houses of Parliament, independently of the King, have a right to legislate, is, by a specific statute, pronounced to be a traitor. Could we then be surprised, if, at some future period, an attorney-general should be directed, extravagantly indeed, according to the idea which I entertain of constitutional law, but rationally and necessarily, if the hon. gentleman's opinion be true, to prosecute, on a charge of treason, those members who have dared to assert that the two Houses have a right to prescribe limitations to the power of the Regent? From a situation so humiliating to the House, and so distressing to its members, who is there that would not wish to be relieved, and who does not see that nothing less than a formal and expli-

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cit disavowal of the doctrine can possibly restore to the members that confidence which is essential to the freedom of debate, and to the House itself that dignity which is requisite to the full effect of its resolves?

But it is not to the interest of the present time alone that the operation of this doctrine is confined. I agree with the hon. gentleman that temporary interests are lost in the magnitude of the general consideration, and that even the circumstances of the present crisis, awful as they are, are but of secondary moment. For the principle he attempts to establish involves in it the misery of distant generations. How certainly this will be the case, will be obvious, if we recollect that the principle as strongly applies to the claims of an heir presumptive as to those of an heir apparent; and that in the course of human affairs instances may again occur (for heretofore they have often occurred) of a presumptive heir who is little connected with the sovereign on the throne, either by the ties of immediate consanguinity, or by the firmer tie of personal attachment. The princess Anne was far from being closely united to the sovereign then on the throne, and she herself when she came to the possession of the crown was still more distantly allied either in blood or affection to her immediate heir. Now, under such circumstances let us conceive the personal exercise of the regal authority by the sovereign himself suspended by temporary illness, and then let us examine what in such a situation would be the probable consequence of the maxim we have heard. Should the representatives of the people be anxious to provide, that with the sovereign's returning health his sceptre also should return; vain and extravagant would be their wish. You have not, says the right hon. gentleman, the means; you have not the power to make the provision you suggest: all your authority is limited to one point; you may recognize the power of the heir apparent, but that power you cannot restrain; you may concur, but you cannot confine; you may embellish with expressions of zeal, with assurances of satisfaction; but, if diffident of future times, you can take no cautionary measures: if dissatisfied, you can neither withhold the trust, nor guard it from abuse. Your situation is utterly weak, incompetent, and helpless; your active functions, like those of your sovereign, are entirely and completely suspended. In such a situation who could answer for the peace of the kingdom; who would be responsible that the ancient competition between the actual king and the rightful king would not be renewed; and that the convulsions of former times, the horrors of which, though after a lapse of ages, still rise on the imagination, would not be again experienced? I know that I am speaking of circumstances foreign to the present times, but I also know that they are circumstances so necessarily connected with, and so naturally following from the hon. gentleman's arguments, that the establishment of the one will inevitably lead to the existence of the other. Whoever on the supposition that his doctrine is admitted, surveys the void of futurity, will see such forms of danger rising as are sufficient to appal the firmest mind. God forbid! that in return for the blessings we have received from our ancestors, we should transmit to posterity a maxim of civil discord, a principle of national disunion.

Independently of the consideration I have urged in support of the expedience of an express declaration, on the part of the House, of the right which has been so strongly denied, there are in the uniform practice of our ancestors the strongest possible proofs that the system of the hon. gentleman is alien to the constitution of England. They alone who possess the power of conferring a trust can have a right to declare on what conditions that trust shall be held; whence it necessarily follows, that the invariable practice of the two Houses of Parliament in prescribing, in every instance, limitations to the regency, furnishes an indisputable proof of their conviction, that the power to confer the regency was in themselves alone, and that there was not in the heir to the crown the shadow of hereditary right to the possession of the regent's office.—Shall I be told upon this occasion, that in almost all those instances there existed the necessity of guarding the interests of a minor king? My answer is, that in the present instance there exists an interest equally sacred, an interest which, if I know the feelings of my countrymen, cannot be less dear to them from its being that of a sovereign, of whose regard to the constitution, and affectionate attachment to themselves, they have had the strongest possible proofs; it will not be the less valued from its being that of a sovereign, whose too great solicitude for

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the well-being of his subjects, has brought upon him the terrible visitation with which he is afflicted; nor can I think that their allegiance will be the less inviolable from its having been confirmed by the solemnity of an oath. Our ancestors valued too highly the rights of the people, and too well understood the genuine principles of freedom, ever to admit the conclusions, for which the right hon. gentleman contends. They knew that all such natural rights as the people have not relinquished must still belong to the people. They deemed these rights to be a part, as yet untransferred, of the general fund, and consequently to be a part to which none but the people can have any possible claim. The right of succeeding to the crown on the death of the sovereign, the people have vested in his immediate heir, but the right of appointing a king whenever the throne, in consequence of the misconduct of the person who filled it, shall be vacant, together, with the right of appointing a Regent, whenever the sovereign who wears the crown shall be incapable of personally exercising the powers of the trust they have hitherto reserved to themselves; for our ancestors well knew that in such exigencies no provisions can be adequate but those which the wisdom of the time shall suggest; and therefore to the wisdom of the time, as residing in the Lords and Commons, the representatives of the nation, they have left them. But though on this occasion they have bequeathed us no specific law as the rule of our conduct, yet by the uniform course of the examples they have left us, they have shown to what points that conduct ought to be directed; they have given us a proof that, in exigencies like the present, the two Houses are to be considered as acting in a double trust; as trustees for the sovereign as well as for the people, and therefore as doubly bound to be cautious, that in the exercise of the authority which arises from the occasion, the power they exert shall not be greater than that which the circumstances of the time, and the nature of the exigence demand. It is in direct defiance of this equally just and prudential rule that the hon. gentleman argues: for the tendency of all his reasoning is to show that the Houses are bound on this great occasion to appoint not a Regent but a King; and that under the name of Regent, and during the life of the legal sovereign, they ought to recognize in the heir apparent, an hereditary right to the actual possession of the regal office. It surprises me much, to observe with what earnestness, in a most enlightened period, the hon. gentleman contends for the maxims of the darkest ages, and to remark with what zeal he labours to rebuild, in a new form indeed, but with all the ancient materials, that exploded system of power, which appropriates to the prince, by hereditary ownership, the inherent rights of the people. Upon his principles, the glorious Revolution must be considered as a profligate act of deliberate robbery, and consummate injustice; for, on his principles, the right to the crown was not in William 3, but in the princess of Orange, in whom alone the claim of hereditary right was understood to reside. Parliament, therefore, according to him, usurped a power to which they had no pretence, and gave that to king William which they had no right to bestow. God forbid, that we should thus renounce our share in the fame of our ancestors, and stigmatize disgracefully to ourselves, the most illustrious event which the history of the world records! Thus, Sir, it appears, that on every consideration of the dignity of the House, of the justice which is due to its members, who ought, on this occasion, to be informed of the nature and extent of its authority, as well as on every consideration of the peace and tranquillity of future times, and of the great principles on which is founded that constitution which is our boast, and if faithfully transmitted, will be their security, we are called upon to agree with the Committee, in declaring the rights which the resolution before us strongly and emphatically asserts.

Mr. *Dempster* begged leave to propose an amendment to the second Resolution, which, he contended, would rescue them from the greatest solecism he had ever witnessed. The Revolution was no precedent in point for the present proceeding. Our King was not likely to be expelled the throne, because he was a king loved by his subjects; but he was a man, and consequently subject to all the calamities and infirmities of human nature. We had, at this time, a prince of Wales, the heir-apparent to the throne, of full age. Why, then, should we have a king, made up like nothing that ever was conceived before, an un-whig, un-tory-like, odd, aukward, anomalous monster! He stood up as an independent man, connected with neither party, and the amend-

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ment he had to propose, was an amendment of his own, without consultation, and without connivance. He did not even know whether it would be seconded; but, such as it was, he would move it, that he might at least endeavour to preserve the constitution from what appeared to him to be dangerous. His first amendment was, to leave out the word "right," because their best way of declaring their right, was not to express it by a word, but by the exercise of it; and with that view, he should farther move to leave out the words "in such manner as the exigency of the case may appear to them to require," and insert "by humbly addressing his royal highness the Prince of Wales, heir-apparent of the crown, and now of full age, to take the care of the administration of the civil and military government of the kingdom, during the continuance of his Majesty's indisposition and no longer." He concluded with moving to leave out the word "right."

Mr. *Powys* expressed his idea that the present question would turn merely on the word "right." If any law existed, it ought to be, that the Prince of Wales should take upon himself the regency, but there being no law, it would be more unconstitutional than the other mode of proceeding.

The question was put, and carried, "That the word 'right' stand part of the Resolution." The question was then put, "That the words 'in such manner as the 'exigency of the case may appear to them 'to require,' stand part of the Resolution."

Mr. *Powys* now observed, that had the question been suggested three days sooner, he should have been one of the first to have risen to second it. He should always consider the hon. and learned gentleman over the way, whether in or out of office, as one of the first legal authorities in that House; and as he was ready to confess, when he was convinced by argument, which he sometimes was, by what he heard in that House, so he now acknowledged, that by the hon. gentleman's distinction between the case of the Revolution and the present case, and the difference that he had, with such ingenuity, laid down between the natural and political capacity of the King being both at an end, whereas in this case, his Majesty's political capacity was entire, although he was not in a state of natural capacity to execute his kingly office, he was convinced his opinion, that the Revolution afforded a case in point, was erroneous, and that those precedents which he had not thought much in point, were very much in point. That of Henry 6 was not strictly so, because when the duke of York was regent, he represented a king, and there was a parliament at that time, a commission being legally issued, giving a general power to hold it. Mr. Powys added, that he thought the Resolution liable to objection. He wished that the first person in the kingdom might be called upon to take the government. In protecting the rights of the Crown, he protected the interests of the people. For, what were the rights of the Crown? Only the powers vested in the Crown, for the preservation of the interests of the people. As the Resolution stood, they were putting themselves in disguise to maim and mutilate the constitution.

Mr. *Pitt* having read the Amendment, said, that the words "as heir-apparent," seemed to justify the Prince's claim to right, and so, by an equivocal turn, to contradict the Resolution. Now, as he conceived that such a claim, if asserted, should not be asserted obliquely, and by a side-wind, he thought it would be better that the Resolution should stand as it did before. With regard to the question, whether the Prince of Wales, as Regent, should have the whole royal power, or only a part, till that point was ascertained, it had better not be discussed; because, at any rate, the House ought not to be taken by surprise.

Mr. *Fox* was not inclined to look with approbation upon the circumstance of lending the question a new turn, without the House having a proper time to consider of it. He apprehended, from the words of the third Resolution, that one of the points was determined; not that he meant to say that he approved; he had contended against it, but having contended in vain, he should make his stand at another post. He was prepared to contend, that the third Resolution, by putting the two Houses into the capacity to pass a bill, did, what he had great doubts that the House could not do, antecedent to the declaring a regent.

Mr. *Dempster* said, that he expected the debate to finish, but he was willing to wave the words "heir-apparent."

Mr. *Burke* said, that they did not, in the smallest degree, tend to overturn the Resolution; and that a person of full age

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was the fittest to be guardian of a person in a state of incapacity. The name of the Prince of Wales, when they considered who he was, was such, that he was certainly properly described in the Amendment.

Mr. *Fox* thought that the House had decided this point already; at least he was convinced it had been carried against him, and to that decision he bowed. He asked whether the right hon. gentleman might not wave the resolution; he should not wish, any more than the right hon. gentleman, to have that done by a side-wind, which had been expressly decided before.

Mr. *Pitt* answered, that he must still consider the third Resolution as connected with the second, and as giving the true description of the only way of proceeding constitutionally to take the necessary measures in this important crisis.

Mr. *Burke* called upon the country gentlemen to be more careful how they voted in future. They might now see the consequences of blindly voting with a minister for they scarcely knew what. He wished to awaken their vigilance, that their honour and integrity might be preserved from danger, and that they might not be entrapped. One person had a scheme against their simplicity, which he had practised, step by step, till he had them so fast entangled, that they could not recede. The right hon. gentleman had persuaded them to vote a first Resolution, and then a second, and now he told them they must vote a third.

Mr. *Pitt* expressed his astonishment at the attack which had been made upon him, and desired gentlemen to recollect, whether in his whole conduct throughout the proceeding, he had ever done any thing that looked like a design to entangle or entrap them. The third Resolution was, in his opinion, the only constitutional mode of carrying the second into effect. If any person could show another mode equally constitutional, and better calculated for supplying the deficiency, he was ready to adopt it.

Mr. *Marsham* hoped that the country gentlemen would not be led away by the sophistry or the ingenuity of the great men on either side of the House. He begged to say, that after what he had heard in that House, and without doors, he thought it necessary for Parliament to declare, that it was their right and their duty to provide the means for supplying the defect in the exercise of the royal authority. Neither, upon this occasion, could he avoid doing justice to the Chancellor of the Exchequer by declaring, that, throughout the whole of the business, he had not only conducted himself unexceptionably, but in a manner highly to his credit. He did not, he said, mean to insinuate, that the Prince had no right. He had but clear common sense, but he could not help thinking there was a more plain method of coming to the same point; he meant the method pursued at the Revolution. The one, the plain way by address, the other by petition. Why not go up with an address, and resort to the old word, a word that answered every purpose at once, pray his Royal Highness to accept the regency?

Mr. *Christian* scarcely knew which way he ought to vote. He did not wish to shrink from his duty; but the possibility of voting away the rights of the Crown, under pretence of defending the rights of the people, staggered him.

Mr. *Rushworth* said they had done wrong from the beginning, by letting any person come down to the House but the Prince of Wales. He reprobated the declaration, that the Prince of Wales had no more right than any other individual subject. He put the case, that had the same calamity befallen his late Majesty in 1745, the year of the rebellion, would a minister have dared to have made the same declaration? He must have found shelter somewhere else than in the House, had he proceeded to a length so daring.

Mr. *Harrison* said, the only objection they could have to placing his Royal Highness in that situation, must arise from an idea that he would not part with it when his Majesty should recover. He asked, on what fears was so unjust a supposition grounded? Let the House consider his Royal Highness's filial attention and tender regard to his mother and sisters during the dreadful period of the family's severe affliction. Let them view all his private virtues, and then say, if he ought not to be declared sole regent, with all the royal prerogatives, which was the only proper means of restoring the third branch of the legislature.

Mr. Dempster withdrew his amendment to the second Resolution, which was carried, as it stood originally. He then moved to leave out all the third Resolution, from the word "determine," and insert his amendment. After some farther conversation between Mr. Marsham, Mr.

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Fox, and Mr. Pitt, on a proposition of the two former to adjourn the debate, it being then ten o'clock, and the third Resolution likely to bring on a long discussion, the point was at last given up by Mr. Pitt, who said, he was not only anxious for all reasonable dispatch, on account of the great importance of the object, but also to relieve the suspense of the public, and set their minds at ease upon the subject.

Dec. 22. Mr. Pitt moved, that the order of the day for resuming the consideration of the third Resolution contained in the Report from the Committee on the State of the Nation, might be read. It was read as originally moved, and then the amendment that had been moved by Mr. Dempster, to leave out from the word "determine" to the end of the Resolution, in order to insert these words, "humbly to address his Royal Highness the Prince of Wales to take the care of the administration of the civil and military government of the kingdom, during the continuance of his Majesty's indisposition, and no longer," instead thereof.

The question being put "that the words proposed to be left out, stand part of the question,"

Mr. *Burke* rose. He said, that he considered it as his sole pride and his exclusive glory to deliver, in his character of a member of parliament, his sentiments, not with a view to please the people by flattery at their own expense, and to persuade them they possessed powers, to which they had, under the constitution, no right; but, on the contrary, to speak against the wishes of the people, whenever they attempted to ruin themselves. He submitted his remarks to the consideration of the House, under these impressions without fear, and without seeking popularity; whether his sentiments would be considered as favouring of Whig or of Tory principles, he was very indifferent; and what the opinions of others were, as to the degree of desire he had for employment, he gave himself no uneasiness to discover. He knew as little of the inside of Carlton House, as he did of Buckingham House; he only hoped he should be understood as he really meant, to deliver his sentiments as a plain citizen.

After this exordium, Mr. Burke proceeded to remark, that our situation at present was really a state of inactivity, and such as was not to be relieved or remedied by the ordinary course of law: there was a defect which must be supplied, but it was to be supplied by the genuine spirit of our constitution; to travel out of the constitution, he hoped no member of that House would be rash or hardy enough to attempt: there was a tribunal of honour, and a tribunal of reputation, to which every man possessing the smallest sense of the dignity of virtue, would always consider himself accountable.

We had been told, upon this solemn subject, that necessity obliged us to take certain steps; and all these declarations, when sifted, appeared to be mere words expressive of the opinion of individuals, and which if sanctioned and approved, would operate as an utter subversion of our liberties, our property, and our character as a nation. Thus the mere "ignis fatuus" of private judgment was to supersede the wisdom of ages. Was there, he asked, a possibility of selecting more seducing words than those with which the third resolution began, "That for maintaining entire the constitutional authority of the King, it was necessary that the Lords spiritual and temporal, and Commons of Great Britian, should determine."—What? Why, that the representative of the kingly honours shall have no other power than the House of Commons shall think fit to allow him; that the constitution shall in fact be changed, be overturned and annihilated. For his own part, he was perfectly contented with the constitution as he found it; he wanted no alteration; but there were others who did, and who set little or no value on the wisdom, integrity, and patriotism of our ancestors, who struggled so gloriously in defence of the right of an ungrateful posterity. To argue upon principle, he considered himself as fully justified in asserting, that Great Britian was governed by an hereditary monarchy; it was so by the written and by the unwritten law; it was so by the very essence of our excellent, our at present matchless constitution; and Heaven forbid it should ever prove otherwise! It was our own inheritance—it was our powerful barrier, our strong rampart against the ambition of mankind. It held out an excellent lesson to the most aspiring; it said, "thus far shalt thou go and no farther;" it sheltered the subject from the tyranny of illegal tribunals, bloody proscriptions, and all the long train of evils attendant upon the distractions of ill-guided and unprincipled republics.

The language of the Resolution, in-

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deed, excited his astonishment; that we are to devise means, that is, that the House of Commons are to direct the Sovereign how he is to act. When he considered this, he believed every reasonable man would be induced to imagine, that we were in America, in the midst of a new commonwealth, devising the best means we could to establish a new constitution, not to protect and preserve inviolate an excellent old one. He would not have it, however, understood that he was an enemy to all sorts of republics; on the contrary, he knew full well there were many very good republics; but that there existed on earth a republic calculated as well for the happiness of a nation as our monarchy, he did not believe.

And yet, what was it possible for the House to think of the Chancellor of the Exchequer's assertion, that any one subject has as good a right to the throne, in this instance, as his royal highness the Prince of Wales; that was to say, that any individual had as good a right as the House of Hanover. Was it possible for such monstrous opinions to be entertained? But at the present crisis, there was something very ungenerous in persisting in such sentiments. If we are to fight against the Crown, said Mr. Burke, let us fight against it fairly; when the monarch is seated on the throne, then the contest may be fair; then we act manfully: but what is to done when the Crown is in a "deliquium?" We are told to take a man with a large black brow and a big wig; he is a fit person; trust none of the royal family, for they will all rob the crown, because they are the relatives of the sovereign; and, in order to fix a proper and legal sanction upon our proceedings, we will give a fictitious consent to our own acts; for, we are to determine on the means whereby the royal assent may be given in parliament to such bills as may be passed by the two Houses of Parliament, respecting the exercise of the powers and authorities of the King, during the continuance of his Majesty's present indisposition. This is called the royal assent, without any intimation to the royal person of any such assent, or to the illustrious personage who is to act for him. This, Mr. Burke said, was a glaring falsehood, and a palpable absurdity. He did not approve of any robbery, whether it was house-breaking, highway-robbery, or any other felony; yet each of them, in his opinion, was more excusable than law forgery. The Great Seal was to be affixed to a commission robbing the executive power of its due function; a certain composition of wax and copper was to represent the monarch: this was a species of absurd metaphysics, such a preposterous fiction that he did not see how it was possible to treat it otherwise than with contempt and ridicule did not the great effect which this absurdity was to have, make it serious and important. Here Mr. Burke said, "I disclaim all allegiance, I renounce all obedience and loyalty to a king so chosen, and a crown so formed. I have given my allegiance already to the House of Hanover. I worship the gods of our glorious constitution, but I will not worship Priapus."

Mr. Burke next begged leave to inquire of the gentlemen on the other side why they feared that the Prince of Wales would abuse his power, or why they doubted whether he would consent to any necessary abridgment of power, when such necessity should be made manifest? Had not the present King consented? had not George 2 consented? had not even William 3 consented? had not, in short, the whole line of our Kings, since the Revolution, consented to all necessary limitations? And if they had, what reason was there to suppose that the present Prince would adopt a conduct so different from his ancestors? And, if gentlemen thought so, why did they unanimously concur in choosing him, nay proposing him, since there were among his Majesty's ministers men of such pure and spotless virtue?

At once irregular, as well as dangerous was the present mode; for the House began with resolving themselves into a republic completely, instead of being one of the three estates. It was impossible, in any point of view, not to see the gross absurdity of the present mode of proceeding; a great deal had been urged in support of different precedents; but he should feel himself obliged to any gentleman who could point out one precedent where the heir apparent was of full age and discretion, and fit to govern; where even in the darkest, the most distracted, irregular, and confused government, it was not the uniform opinion that such a prince should be chosen to govern. When all the heterogeneous mass of cases and all the farrago of nonsense under the title of legal distinctions, were considered, every man of common understanding, and integrity of

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principle, must see the necessity of governing the whole of them by the genuine spirit and the fair principles of the constitution. He hated all distinctions and constructions which would not square with the principles of good sense; and, if the contrary doctrine was adopted, the House might, among themselves, choose their own Great Seal, together with a person to hold it.

As to the case of the Speaker of the House of Commons in the 31st of Henry 6, it was allowed by gentlemen on the other side, that it was not law then; but by their present arguments it is law now. He dreaded the idea of a common recovery of the crown, where any individual, either in that House or the House of Lords, was to become the voucher. When he wanted a king, he wanted a man possessed of proper and appropriate power; but a king by the Commons was the creature of the Commons; it was the King's name, but without his will.

Allusions had, upon this occasion, been made to the Revolution and the Restoration; but they were acts of necessity, having attendant upon them their peculiar ways. But what was the nature of the Revolution, and what was the nature of the restraints upon the executive power agreed upon, and consented to, upon that memorable period? They were these: If a king shall abolish or alter courts of law, trial by jury, or religion, or erect a standing army; then the compact is dissolved, and all right and power reverts to the people; and the people, by plots, conspiracies, or any other secret or violent means, may hurl such a king from the throne. The Revolution was, in fact, a precedent of a delinquent monarch; a precedent to teach this lesson to kings: "Discite justitiam moniti et non temnere leges."

How exceedingly needless, also, was the notice which had been taken of the words of his right hon. friend (Mr. Fox) upon the question of right. "O shame!" added Mr. Burke, "I have lived to see, this day, a single word dropped from an individual, producing such alarming consequences, that nothing short of a declaratory bill, solemnly passed by both Houses, can be sufficient to answer the purpose of a negative to this word." Thus they had, indeed, paid a compliment to his right hon. friend, and thus they had presented him with a dish, on which the most gluttonous appetite might feed until it was satiated. Mr. Burke next adverted to the case of general warrants, and quoted the expressions of sir G. Savile, upon the power of the House, relative to declaratory laws. He observed, that the mention of sir George produced before his mind the agreeable image of the marquis of Rockingham, both of whom were happy in the oblivion of these degenerate times. With the idea of his right hon. friend, (Mr. Fox) concerning the right of the Prince of Wales, he had the happiness to coincide; for, if the King be blind dumb, lethargic, or apoplectic, there must be some person who is perfect, or else to whom do we owe our allegiance? Gentlemen on the other side seemed to consider themselves like antiquarians, who valued a Homer without a head; and the constitution was thus made a museum. Mr. Burke expressed his anxiety to be informed, by those who cautioned the House against the danger of giving to the prince too much power, lest the King's right might, upon his returning health, be in danger, what the King could be supposed possibly to lose, by being represented by his own son? The rights, he contended, both of Lords and Commons, would be supported by it, and preserved. If the prince were allowed to represent the King, without limitation, it would prevent cabals, intrigues, and dissentions; indeed, reason and equity, the safety of the country, and the safety of the Crown, were all joined in inducing him to agree to the sentiments of his right hon. friend upon this occasion.

Gentlemen on the other side of the House had thought proper to remark, that we had a weak government. We had, indeed, a weak government in two ways; for one King was disabled by nature, and another was disabled by art. He repeated his request to know upon what principle ministers would elect the prince, if they suspected him? and if they did not suspect him, why did they wish to limit or restrict him? Were it possible for the sovereign to be made acquainted with the present situation of affairs, he would feelingly exclaim,

> "Upon my head they plac'd a fruitless crown,
> And put a barren sceptre in my gripe,
> Thence to be wrench'd with an unlineal hand,
> No son of mine succeeding."

He would then add, "Restore me to my former state and opinion. Do not let me see a black-brow'd phantom on my throne!"

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Adverting, next, to the consideration of depriving the Prince of the power of bestowing honours, Mr. Burke remarked, that the fountain of honour had, indeed, since the year 1784, profusely flowed. He did not mean to infer that this was wrong; but, if his Majesty had been thus bountiful, it would not be deemed extravagant to indulge his son a little in the same way; at least, to deprive him of that advantage was not very decorous. Suppose, for instance, the Prince wished to bestow honours on the house of Cavendish, would any person in that House have the audacity to dispute the propriety of such an honour? Or suppose his Royal Highness should be disposed to revive the title of Rockingham, would it be deemed extravagant or improper?—Here, conceiving himself to be interrupted during his remarks concerning the various possible claims for distinctions, which some families might have upon the Prince, Mr. Burke observed, that, in vociferation and noise, some persons were very great, but he knew a set of hounds that would eclipse them. He declared, that, for his own part, he never spoke to the Prince about any office; and here, perceiving a smile on some countenances, he added, that perhaps some gentlemen would not readily believe such an assertion; a doubt might be to them natural enough; but he wished to impress the House with a proper sense of the necessity of not depriving the Prince of the power of bestowing honours. "I, should not," he remarked, "mean, insignificant, and trifling as I am, like to see my name upon the roll of proscription." All sorts of proscriptions, in cases similar to the present, were nonsensical, insane, and most preposterous declarations; for, they deprived the executive power of an essential part of its functions, of the glorious opportunity of rewarding virtue. Mr. Burke briefly alluded, as an instance, analogous to the present, to the case of Charles 6 of France, and concluded with advising the House to reflect upon the probability of convalescent sanity, and also to remember the danger and possibility of a relapse. The present occasion was an awful one; and therefore he trusted that the House, deeply impressed with a sense of its alarming and unprecedented nature, would come forward and provide effectually for the national security and welfare.

The *Solicitor General* repelled the doctrines he had heard, as if his Majesty was not in his politic capacity, whole and entire. He urged the expediency, as well as propriety, of adopting the mode of procuring the royal assent proposed by the Chancellor of the Exchequer, declaring that from some of the arguments he had that day heard, a doubt had arisen in his mind, whether the right hon. gentleman did not mean to sacrifice the constitution. He asked, would any man dare to put a question, whether the King yet sat on the throne or not? For his part, he was determined to support the law, because the law supported the King on the throne. He had never said, that none of the royal family were heirs to the crown, but sure he was, that only one of them was heir, and with a view to secure him in his right to hereditary succession, it was absolutely necessary to proceed as the resolution provided. The throne was at present full of the monarch, and no man dared to say that his Majesty was deficient in his politic capacity. He therefore should vote upon the simple ground of preserving the forms of the constitution; and be it remembered that upon the preservation of the forms depended the substance of the constitution. With regard to the pageant and the puppet that had been talked of, king William submitted to be that puppet; if he had not, he could not have had the crown. He had heard a great deal about limitations, but he would not say one word upon that subject then; when it should come properly under consideration, he would freely speak his sentiments upon it. What he had heard from the noble lord in the blue ribbon the other night, had given him the comfortable hope, that if the noble lord had ever forgot his sovereign, the noble lord would not now forget him. He adverted to what had fallen from lord North relative to the precedent in the infancy of Henry 6, when the noble lord had declared, that the parliament then assembled, though the Great Seal had been put to the commission by a babe nine months old only, was a perfect legislature, consisting of king, lords, and commons. It had been said on a former day, that if the two Houses could do what was proposed, they could do any thing; if they could go so far as to procure the royal assent, in the way before stated, to the Regency Bill, they might proceed to pass other bills in the same way; but this was neither a just nor a fair conclusion; it was a maxim which ought to be attended to, that the right which is

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created by necessity, is also limited by the same necessity; consequently, they were to provide merely for the necessity of the case, and not go beyond it. As a justification of the use of the Great Seal in the king's name, he observed, that notwithstanding his Majesty's temporary incapacity, in the eye of the law, his politic character remained entire; that any measure taken to subvert or act contrary to that acknowledged maxim of law, would perplex and embarrass the consciences of the judges who were to declare the law, and that, on this ground, there would be no illegality in applying his name to the Bill in question. No regent, he was persuaded, could be legally appointed but in this way. He defined the rights of the two Houses, and spoke of the last Regency Bill in 1765, for the security of the hereditary succession, and to guard against the danger of the Crown's devolving into the hands of an infant. He saw some gentlemen present who at that time sat in parliament. He appealed to them therefore to know, whether or not it was their meaning when they passed that Bill, to clothe the regent with all the powers of a king? The succession to the throne was undoubtedly hereditary, but the exercise of the government, the wisdom of ages had left it to other times to provide for, when a necessity like what existed at present should occur. However all might reprobate the precedents that occurred in the reign of Henry 6, the two Houses then provided for the exigency by forms; they put in a puppet, and gave that puppet powers extremely short of the powers of a king. A regent was then appointed, as now, by the two Houses nor could a regent ever be appointed but by the two Houses. If a Commission had been made, before the two Houses met on the 20th of last month, to open the parliament, he was of opinion that it would have been legal. Those who asserted that the quick and short way of making a regent was the best way of making a regent, were they who in fact declared the two houses could make laws. They might talk what they pleased of legal metaphysics, the law was as he had explained it, and he could not help taking notice of a question that had been put to him by an hon. gentleman, a worthy friend of his, whose mind ought to have been more full of the legal entanglements as they had been called. That hon. gentleman had said, that if they could by putting the Great Seal to a Commission, make a legislature, why had they not dragged the Thames for the Great Seal at the Revolution, and then they might have gone on passing bills without calling in William and Mary? He would tell that hon. and learned gentleman, that let the throne be vacant, and he cared not where the Great Seal was. When the throne was vacant, every function of the executive government was at an end; the courts of justice did not sit. Whereas, at that moment, let gentlemen recollect the courts were sitting, and the judges proceeding upon that very maxim that the political capacity of the Crown was entire. William, the great deliverer of the nation, was not ashamed of being the puppet that had been described. At the Revolution, the nation resolved on what they would have, and parliament, after the legislature was complete, thought proper to make an act, declaring that all was right. He was not to be told that they would do every thing, because they were endeavouring to adopt the constitutional mode to make parliament complete. He added several other legal arguments, and concluded with protesting solemnly that the opinion he had given was from principle, uninfluenced by any motive, but a regard for the constitution, and a reverence for the wisdom of ages, on which he advised the House to act, by voting the original resolution.

Sir *John Aubrey* said: Upon the present occasion I find it impossible to do my duty, as a member of this House, without, in some degree, differing from those, with whom I have for some time acted. I concur with them in rejecting the doctrine of a regency "de jure" in the heir to the Crown; because it is against precedent, and against the law of the land, and was so declared in parliament in the reign of Henry 6. In fact, as I see the subject, it is no case of regency in any person, except as the whole parliament shall think fit so to treat it. The law of England, as I have been instructed, acknowledges neither infancy, nor delirium, nor any personal infirmity, to belong to the king upon the throne; for, in this respect, the law looks only to his political character, and supplies him with councils to enable his acting politically, even when naturally he is most incapable. But I do not concur with them in thinking the House, at this moment, competent to exercise any of its parliamentary functions, more especially its legislative one; or to do any

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thing tending to such an exercise. The King has not yet appeared either in his person or by proxy, that is, by a Commissioner representing him. I take it to be the essence of parliament, that the three branches of the legislature should be assembled, before one begins to act. But only two are now met, the first of the three being absent. Till this branch shall appear, I agree with the sentiments contained in a very recent publication, by one, whose authority, as a well-read and consummate lawyer, is so justly and universally acknowledged, and with whom I have the honour to be connected by friendship, that without the king we are only a convention. But in the present case, there is no necessity for resorting to a mere convention of the two Houses. The King's person may be constitutionally supplied by a Commissioner; and that representative, in the present extraordinary situation, will, in point of propriety, be the heir apparent to the Crown. Till this chasm in parliament shall be filled, I cannot assent to joining in any vote, or any other business of the House, beyond voting for a previous question, or some other question tending to prevent our farther acting as a House. When this chasm shall be properly filled up, when the parliament shall be full by a representation of the king, I shall chearfully and heartily concur in the seemingly general sentiment of making the heir apparent sole regent. As far also as my consideration of the subject hitherto can entitle me to speak, I confess I am not in the least disposed to adopt those restrictions, which have been opened to the House, as probable parts of the intended regency bill. I dread the effects of a distrusted, curtailed, and consequently enfeebled, executive power. I wish sincerely to join in every proper respect to our most gracious and afflicted Sovereign, and in providing every security for his returning to the personal exercise of his authority, the moment his present calamity shall cease to operate. But I cannot think, that the proposed restrictions would be approved by himself, were he restored to his former health. From his known love of his country, and from that liberal benignity of mind which soars above the flights of envy, I must presume that he would not wish to increase the public distress from his present afflicting malady, by rendering the heir apparent to his crown, and his intended representative, less capable of performing the whole of the royal functions, than he himself was before the commencement of his illness. The argument for restriction proceeds upon a supposition, which might warrant future permanent restrictions on the executive power. If the heir apparent is not fit to be entrusted as a temporary representative for his father, it claims from us restrictions to check the prince, when he shall have the executive power as a principal, and in his own person. Had he committed any overt act, indicative of a disposition to abuse the royal authority, he ought to be equally restrained in both cases. But, to restrain him in either case, without provocation, strikes me as unjust to him, and dangerous to the state over which he is to preside for his father. In truth, the argument for restriction of the prince as a regent, seems more to savour of prejudice against a particular party in the state, than to concern the general and public welfare.

Lord *North* begged leave to assure the Solicitor-general that he had totally misapprehended the arguments he had, on a former occasion, urged in support of his opinion, which had, no doubt, led him to imagine, that he was confident of his support on the present question. For his own part, he had uniformly asserted that no act of legislation could possibly be constitutionally exercised without the concurrence of the three distinct states of the Crown, Lords and Commons, not three imaginary powers, such as the learned gentleman had described, founded in fiction, and made up of forms. It was impossible that he ever, for a moment, could entertain an idea so contrary to what had been always his idea of the fundamental principles of the constitution. It was his misfortune that he was but little acquainted with the learned gentleman, farther than by character, which, he admitted, stood deservedly high in the estimation of the world, and the maxims which he had that day heard him utter, together with the truth and justice of his observations, had impressed his mind with a very high opinion of him; but he confessed, that from such maxims and such truths, he had never before heard conclusions so impotent, and arguments so weak. The learned gentleman had admitted that they were not then sitting in a legislative capacity, in which opinion he heartily agreed with him; but how could such premises warrant the conclusion which had been drawn, namely, that they had the power to create

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a third estate, which third estate was to give vigour and effect to their proceedings? But, said the learned gentleman, the power which necessity creates, necessity must limit. How ought it to limit that power? Not, surely, by entering into the discussion of distinct questions, put by proceeding immediately to supply the temporary defect in the executive government, and no farther. The same necessity pointed out the Prince of Wales, as the person pre-eminent above all others, for supplying that defect. It was impossible that they could overlook his claim, and yet they were now debating about the form of that which they could not set aside. From the words of the resolution, it was clear that the act which must follow it, was not to receive the royal assent from the regent, but by a person, a thing created by the House for the special purpose of giving assent, without any discretionary power whatever. Such were the three estates which were to give validity to their proceedings. But, would any man seriously maintain that those three estates were really and truly any more than two, "Qui facit per alium, facit per se." The substantial proof was, and he defied it to be controverted, that the whole power so exercised was the sole and uncontrolled act of the Lords and Commons, without the participation of any other estate known to the constitution of this country. Lord North illustrated this argument, by quoting the well-known law report of an eminent author, under the title of "Stradling *v.* Stiles," which, he said, he would take the liberty of mentioning among the other great law authorities which they had heard. The dispute was occasioned by the interpretation of a will, wherein the testator had bequeathed to Mr. Stradling all his black and white horses. He had six black horses, six white horses, and six pyed horses. The learned council for Mr. Stradling, very ingeniously contended that his client was fully entitled to all the horses—to the black horses, because they were black; to the white horses, because they were white; and to the pyed horses, because they were black and white. In like manner, do the advocates for the present question argue, when they maintain that the three estates of parliament will be perfected by adopting the third resolution. First, they act as a House of Commons; secondly, as a House of Lords; then, like the black and white horses, they act both as Lords and Commons; and from this strange combination the third estate is created, which was to give life and vigour to all their operations.—The learned gentleman had also thought proper to assert that the forms of the constitution and the precedents of our ancestors, compelled the House to adopt the mode which had been followed in bringing forward the resolutions. He, for one, denied that the constitution could possibly sanction any constitutional measure that was founded on a fiction in law; and with regard to the precedents which the learned gentleman had mentioned as furnishing examples of other pageants and other puppets, he contended that they were not in point. The duke of York, surely, was in a very different situation, and the duke of Gloucester was invested with full powers to open the parliament in the usual form. With regard to the doctrine that had been maintained, that the same arguments would apply to a commission granted by his Majesty for giving the royal assent to any bills which had passed both Houses of parliament, the absurdity was obvious. The King in granting that commission actually gives his assent to such bills, and the commissioners, of course, have no discretionary power. If therefore we, as a House of Commons, in conjunction with the other House of parliament, grant a similar commission, do we not, in fact, ourselves give the royal assent to our own act? In other words we argue, that we think it wrong to give it ourselves directly, but we will appoint commissioners to act for us. Such was the monstrous and unconstitutional proceeding which we were about to adopt; and of the danger of such a precedent they ought to be aware. The precedents which had been brought before them, ought to put them on their guard, lest they themselves should furnish posterity with a lesson, which might one day prove fatal to the constitution. What was the Man of Straw, which they were now going to create but a creature, a thing formed with their own breath, to give a colour to a measure, to which, he would be bold to say, the history of this country did not afford a parallel?—As to the precedent of the Revolution, which had been dwelt upon so much, he saw nothing in the declaration of William and Mary, that was not founded on the true principles of the constitution as by law established. That declaration, which was afterwards incorporated in the Bill of Rights, always sup-

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poses, and proceeds upon that supposition, that the three estates are perfect and entire. If, therefore, any thing in the former debate could for a moment impress any member with the idea that he had maintained such a doctrine as that supported by the learned gentleman, he begged to take that opportunity of declaring, that he must have been misunderstood.—To the amendment, he should most readily give his assent, regarding it as the only mode by which, on the present emergency, they could act legally. They were now assembled to supply the defect which the unfortunate disorder under which his Majesty laboured, had occasioned in the executive power, and the question was, what was the form they were to adopt? At the time of the Revolution, parliament had addressed king William to assume the reigns of government; and was that measure, he would ask, ever considered as hostile to any one principle of the constitution? Why, then, do we not follow that precedent, and by addressing the Prince of Wales to take upon him the regency during the indisposition of his royal father, save ourselves and our posterity from the horrid principle of virtually declaring, that an act of legislation may be exercised by the Lords and Commons at a time when the third estate is incomplete? With regard to what he had heard of limiting the prerogatives of the regent, whatever his opinion might be on that subject, the present was not the proper time for such an investigation. It had been said, if a question of this nature were to be brought forward, it would be done more constitutionally and with equal effect, when the regent could dissolve the parliament, and defeat the intention. But the idea was absurd. Was it possible to imagine, at a time when there was not a single shilling voted for carrying on the measures of government, nor a single supply granted, that a regent, in that situation, would venture to dissolve his parliament; or, indeed could any person prove so weak and short sighted as to advise such a measure? The dissolution of parliament was a part of the royal prerogative, which had always been exercised with much delicacy and discretion even by the sovereign himself. How much more cautious, then, must a regent be in touching a privilege of a nature so sacred, especially in circumstances like the present, when we all anxiously look forward to the time when Heaven may hear the prayers of an affectionate and loyal people, and again restore their sovereign to the throne? It would be one of their first considerations to decree such measures as were most likely to bring about that happy event, by effectually protecting the royal person from the possibility of danger, and that he might re-assume the sceptre the moment he was capable of wielding it. He therefore certainly thought, that the care of the royal person should not be vested in the regent, whoever he was; such a sacred trust should be watched with the most jealous eye, and guarded by the most vigilant and faithful arm. In conclusion, lord North called the attention of the House to the Prince of Wales, who, he observed, by the moderation, and the forbearance of his conduct, on this occasion had eminently distinguished himself, and, in a peculiar degree, become entitled to the confidence and affection of the House. With what indignation, then, must they see any attempt to deprive that illustrious person of any of those privileges of which he has proved himself to be so worthy! Was it meant to parcel out the royal prerogative like an auctioneer in lots, in order to dispose of the regency on the easiest terms? The House could not, in their present circumstances, proceed in any other mode than by address: if they adopted the measure proposed in the resolution as originally moved, they would shake the fabric of the constitution to the centre.

Lord *Fielding* supported the amendment. He said, that the idea of restricting the authority of the Regent, could arise only from a want of confidence in the Prince of Wales. The two Houses, at the time of the Revolution, gave an unlimited power to the Prince of Orange, to administer the public affairs. It would seem very extraordinary, that so great a confidence was placed at that time in a prince, who was a foreigner, and who had at the time in the kingdom a foreign army of near 20,000 men, and so little confidence was now entertained for an English-born prince, who loved and revered the constitution under which he was born, and which his family had been called over to defend and preserve. To all restrictions upon the Regency he objected because the natural consequence of them would be to weaken the government. A weak government here, at the moment of a critical juncture in Europe, might be attended with fatal effects. Had there been a regency in this country under

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such enfeebling restrictions, at the period of the death of the emperor Charles 6, when France fell upon the House of Austria, and when the allies of our ancient rivals, the French, seemed to have resolved that the House of Austria should cease to exist, God alone could tell what might have befallen this country, and what would have become of the balance of power!

Mr. *Fox* rose. He said that he would treat the important subject before the House in as short a manner as possible, but if he should be obliged to detain them for any length of time, they must impute it as much to the extraordinary doctrines which had been thrown out that night, as to the anxiety which he might have to press his own opinions upon their attention. He wished to have had an opportunity of speaking immediately after the hon. and learned gentleman (the Solicitor General), whose doctrines had struck him as highly inconsistent with the conclusions which he had drawn from them; and whose whole train of reasoning on the subject, was, in his mind, enveloped in a nice kind of legal metaphysics, admirably calculated to confound the plain understandings of unlearned men, but which, when stripped of its covering, would appear to be totally inapplicable to the subject. There were two positions of the hon. and learned gentleman which he was particularly anxious to recall to the memory of the House, and which in all that he should have occasion to dwell upon, he begged gentlemen to bear in mind, and carry with them. The first was a general maxim, implying "that the power which necessity creates, necessity also limits." The second was, "that in this and every other exigency, the two Houses of parliament were bound to search for, discover, and act by what is the law, according to the forms of the constitution." These two principal points in the hon. and learned gentleman's speech he wished to carry in his mind, and to reason from; and acting upon the last of these doctrines, he agreed, that it was a fundamental duty to inquire and ascertain the distinction between the powers of the House in what they could do by resolution and address, and what they could do by bill; that was to say, what they could do as a complete and distinct proceeding of their own, independent of the other branches of the legislature; and what they could do, as making a part of, and in conjunction with the other two Houses of Parliament. That this was their duty he perfectly agreed with the hon. and learned gentleman; and he was equally disposed with him to hold sacred and to regard the forms of the constitution; but he held them sacred only in so far as they were the outguards and protectors of the main body of the constitution. The moment that they ceased to be the guardians, and became the betrayers, he could no longer venerate the forms, but must instantly refer to the substance and essence of the constitution. If a violent infringement should be made on any of the fundamental principles of the system which they all professed to revere, and this attack were made under the specious disguise of the outward forms of the constitution which it was intended to undermine, could he hesitate for a moment which party he was to take, that of the forms, or that of the substance? There could not be a moment's delay, and he therefore in the present discussion felt it to be his first duty to inquire whether the measures now proposed were not in direct hostility to the principles of the constitution, while by miserable juggle and a fraud they pretended to be consistent with the forms.

For his own part, he should conceive, that in the present exigency there were three courses to be pursued, of which, whether that proposed in the amendment by the hon. gentleman (Mr. Dempster) might be the best or not, that proposed by the Chancellor of the Exchequer was manifestly the worst. And this he thought he should be able to make evident, even taking the matter up on the right hon. gentleman's own ground—the hollow, miserable, and defective ground of precedent. That of king Henry 6, had been most particularly insisted on. Now, though he could not allow that the minority of a king, with the temporary incapacity from disease, were analogous, he would not hesitate to examine the precedent of Henry 6, and compare it with the present. On the death of Henry 5, a commission was issued under the Great Seal, appointing the duke of Gloucester to the regency, with full powers to exercise the royal authority, and to use his discretion fully and freely in trust for the minor king. By this first step, the third estate was restored before the two Houses took upon them to do any one act in the shape of legislation; and the regent being thus vested with the full

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exercise of the prerogative, the parliament was able to confirm by one act the first measure of the issuing of the commission. If that proceeding had been followed in the present case, would our situation have been the same as it then was, or as it would be if the measure proposed by the right hon. gentleman were adopted? By that measure, it was proposed, that, instead of the lineal successor, invested with full discretion, the two Houses should nominate and invest a creature of their own, not with discretionary power, but with a ministerial authority to affix the Great Seal to whatever they should choose to pass. The precedent of Henry 6, militated directly against the course now proposed. That precedent clearly went to the nomination of the next lineal successor to the Crown, and to his investment with all the functions of royalty, whereas, the proposed course was to set up an intermediate person, out of the line of succession, and to take from him all discretion. The absurdity of this proceeding was equal to its indecency. This creature of the two Houses was to be bound to give the royal assent. Was it ever heard of, or imagined before, that there could be a power of giving assent without a power also of dissenting? The very term demonstrated the absurdity. A person's consenting to a thing evidently implied that he had the power not to consent. There was a person to be set up without power, without discretion, and yet this pageant was to give the form of a parliamentary act to the proceedings of the two Houses. By the precedent in the commencement of the reign of Henry 6, the regent was invested with the power of the royal negative, and with the corresponding and essential powers of proroguing or dissolving, and of convening parliaments. By this, in the first instance, the three estates were restored to their several functions, and the Parliament being made complete, they were able by an act of legislation, to justify and legalize the measure by which they were thus established. The precedent of Henry 6 then pointed out to the House these two important facts: 1. That the power was given, in the first instance, to the next in succession to the Crown; and in this nomination, the full, absolute authority of the sovereign was entrusted to him. 2. That, though afterwards limitations were pnt to the duke's exercise of the prerogative, the limitations were made in full Parliament, when the duke constituted the third estate, and when from each of the bills restraining his authority, he might have withholden his assent.

These two historical facts were contained in this precedent, and though the duke of Gloucester afterwards complained of the limitations which were made, his complaint was unjust, since they were made with his known consent. He was by no means of opinion, that the precedent of Henry 6 would bear him out as a guide which they ought to follow: but, there was one point which it forcibly demonstrated, that in vesting the royal authority in the next in succession, our ancestors clearly understood that they were acting consistently with the spirit of the constitution. The particulars of the case were curious.—On the death of Henry 5, the bishop of Durham, then lord chancellor, delivered the Great Seal into the hands of the infant king, then nine months old, and the duke of Gloucester, of his own authority, delivered it into the hands of the master of the rolls, by whom it was used. This was rather a strong measure; and yet in the parliament which succeeded, although acts of indemnity were passed for almost every other measure, yet no act of indemnity was passed for this; so convinced were our ancestors of that day of the propriety of vesting the royal authority in the next line of succession. Upon this occasion he was ready to acknowledge, that he could not put any value on the subsequent acts of the parliament of that miserable reign. They, who proceeded to lengths so astonishingly absurd as to declare the minor king fit to reign at the age of eight, and again at the age of nine, and who declared him incapable to reign when he came to the age of thirteen, could not be referred to as models either of wisdom or consistency; but this he asserted, that all their proceedings tended to show, that though they would not make for his argument, they were directly and strongly against that of the right hon. gentleman.

Previous to his investigation of the other precedents, he must state, that taking them altogether, they served to divide the subject in two parts, and to elucidate two natural points, as principles of the constitution. 1. That no man ever was to hold the regency in trust for the Crown, but the next in succession. And, 2. That no man was to hold it but with

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the powers incidental to the office; that was, with the powers constitutionally belonging to the Crown. These two principles the precedents all contributed to demonstrate and strongly inculcate, except in cases where the adherence to them was impracticable. Was there in the present emergency any reason for departing from this safe and constitutional course? And yet, what was the measure to be pursued? A commission was to be granted to a person—not to the Prince of Wales; not to any branch of the royal family; and by this commission, this person was to be created into the third estate of the realm, without possessing one of the functions of that estate.

Would the advocates of such measures take upon themselves to ascertain whether the two Houses had any such power, which they could derive either from precedent, from analogy, from the letter, or from the spirit of the constitution? No point could be more distinct and more clearly defined, than the powers and proceedings of the two Houses, taken individually, and the powers and proceedings of the three estates in conjunction; and yet, in all the agitation of this matter, they had been industriously confounded. In speaking, therefore, of their separate powers, he would distinguish between them thus: when speaking of the two Houses by themselves, he would call them the two Houses of Parliament; when speaking of the three estates, in their ample form, he would call them the legislature. It would not be denied, it would not be disputed, that the powers of these bodies were completely distinct; and they surely were not to draw precedents from the acts of the legislature for the government of the two Houses: yet, all the precedents on which they were now called upon to proceed, were acts of the legislature; and they were not to be considered, at this moment, as any other than a convention of the two Houses of Parliament. As they were not the legislature, they were not to look for precedents of the legislature. They could be instructed only by precedents in the proceedings of the two Houses of Parliament, when deprived of the third estate.

Most undoubtedly the convention at the Revolution was the only place to which they could truly look for such a precedent. On this subject he wished to be clearly understood. If the distinction which he drew in this case was capricious and unfounded, he would throw himself open to correction; but it was a distinction which in his mind had great weight, and which should be seriously considered, when the precedent was brought to bear in the present instance. He declared then, that the case of necessity at the Revolution was a necessity not proceeding from accident, but from real danger. The vacancy of the throne did not proceed from the malady of the king, as afflicted by Providence, but from the violent infringements which the king had made on the liberties of the people, by which their allegiance from him had been constitutionally withdrawn; and in the tumult he had fled from their just vengeance. Thus outraged and injured, threatened with a foreign enemy in support of a tyrant, there was a necessity in which all forms must give way to the substance and essence of the constitution. They had not in that necessity the choice of conduct. Their first bounden constitutional duty was, to protect themselves against the danger which threatened; and therefore he assumed it as an uncontrovertible position, that what they did under the immediate pressure of this necessity, did not and could not apply to the present necessity. Why? Because the cases were in no degree parallel. Our liberties had not been infringed by the monarch, and they were not threatened by any pretender; nor did France, or any other foreign state, meditate any attack in support of any forfeited right. In the present instance, there was an interruption occasioned by the temporary derangement of the king, while the empire enjoyed a complete peace, and there was an heir apparent of ripe age, and of perfect qualification. The two cases of necessity were not similar, and the proceedings of the convention, springing from the necessity, did not apply; but he was ready to acknowledge, that every proceeding of theirs which could be referred to free agency, and in which they were not shackled by the dangers that surrounded them, did apply to the present case.

Arguing on these two preliminary positions, if it should be said that the convention overlooked the line of hereditary succession, passed over the claim of the Prince of Wales, if there was any Prince of Wales, and also the right of Queen Mary, his answer would be, that in doing so, they acted under the pressure of the necessity, well knowing that they could only preserve to the kingdom its liberties and con-

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stitution, by putting the crown into the hand of a person able to defend and protect them. Their election of King William, therefore, he thought an act of positive necessity, which did not apply to the present case. The mode of their electing him he considered as an act of discretion, and that, therefore, did apply. King William, with all his great and glorious qualities, certainly did not possess such a knowledge of our constitution as to have had in his mind any preference as to the manner in which the crown should be conferred on him. His education, chiefly military, did not leave him much to the discussion of the forms of our parliamentary proceeding; and whether it came to him by declaration of the two Houses, by address, or by an act passed with the affectation of legal forms, was a matter which he believed would have been indifferent to him, and therefore he took it for granted that the convention acted from their own volition. And how did the two Houses act? They might have ordered a new great seal to be made; they might have created a pageant, and giving to themselves the empty form, without the reality or the essence of a perfect parliament, they might have committed an insulting fraud, and in the mere mockery of legislation have passed an impotent act, conveying to king William the crown. But, knowing and feeling the distinct powers possessed by the two Houses, and possessed by the legislature; knowing that their organs were distinct, and that their proceedings could not be confounded, nor mistaken the one for the other; knowing that the two Houses could by their organization act only by resolutions and addresses, and that the legislature could again act only by bill and statute, the convention proceeded by that course which was consistent with their functions—by address. Here was a precedent in the Revolution, applicable to the present case. Address the Prince of Wales to take upon him the exercise of the royal authority, and thus by one step making the legislature complete, the course to be pursued was easy and palpable; pass an act to quiet the minds of the people, as to the informality of the first measure. He further illustrated the analogy of this part of the precedent of the Revolution, by stating that the convention divided the grievances of which they complained into two classes; 1. proceeding from the violation of the laws, by the tyranny of King James 2: 2. proceeding from the inadequacy of the laws to the protection of the subject. The first the two Houses thought themselves warranted to declare, and properly considered a declaration of their rights to be sufficient. The second they as properly left to the legislature, well knowing that they could only be provided for by remedial laws. Upon the whole, therefore, he felt himself warranted to assert, that, reviewing these two precedents, he discovered that the precedent of Henry 6, if it did not make exactly for him, made directly and totally against the right hon. gentleman. That of the Revolution clearly and intelligibly pointed out to the two Houses the measure of an address, as the true, constitutional mode of supplying the King's incapacity.

And yet, it was not solely by viewing the constitution in its spirit, that they were taught to avoid the monstrous error of the two Houses attempting to legislate. The 13th of Charles 2 expressly declared, that the two Houses could not make laws without the King. Oh! but, said the hon. and learned gentleman, this statute could not apply; for the King, though at present rendered incapable, had still, in the eye of the law, all his political capacity, and the throne was to all intents and purposes full. The throne being full but the King incapable, what were they to do? To appoint a person who was to give the royal assent to bills to be passed? Indeed! How was this person to know the royal pleasure? Was he to go to Kew to apply to the royal person, whom Providence had deprived of the power of assent or dissent? Human reason revolted from the absurdity! Was there a permanent authoritative council to which he could apply? None. Could he exercise his own will? No: he was deprived of all discretion. To whom then only could he apply? To the two Houses of Parliament that gave him being; and thus we had a monster unknown, unheard of in our history! We had indeed formerly two Houses of Parliament, that proceeded first to legislate, and then to act. Had the hon. and learned gentleman been the then solicitor-general, instead of Oliver St. John, he would not have felt himself at any loss to legalize all the proceedings of the long parliament; he would have issued a commission, in the name of the King, and by the creation of a pageant, have affixed the Great Seal to each of the ordinances, and having so done he would

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have exclaimed, Here are perfect statutes according to law! But the King's name could not be used against the King's authority; and setting up a man of straw, for the purpose of limiting the prerogative, was in fact and truth an infringement and outrage of the royal authority.

He did not mean to combat the doctrine, that the two Houses of parliament were competent, by resolution or address, to supply the present deficiency; but he should beg leave to contend, that if they proceeded farther, if they assumed to themselves powers which belonged to the legislature, and proceeded to legislate, the judges would laugh at their acts; there was not a court in which they would be recognized, nor a corner of the kingdom in which they would have the efficiency of law. Declare the right, or the propriety of the prince's taking on him the exercise of the royal authority; or address him in direct terms to assume it; and parliament will be enabled instantly to put on its legislative authority. Then there would be a third estate, and the executive power would fall into the hands of that person who was most concerned in the preservation of the monarchy; and who by every claim of lineage, of hereditary title, of interest, of constitutional pre-eminence, was pointed out on the emergency to be the regent during the incapacity of his royal father. If instead of this, they proceeded to metamorphose themselves into the form of the legislature, what was there but their own temperance as a security for the most unconstitutional outrages? While they contained themselves within the limits of their true authority, they were safe. The moment they went farther, jeopardy attended every step, and there was no foreseeing what violence and error might ensue.

All this, said the hon. and learned gentleman, is very plausible; but during the life of the King there was no person that could have a right to act for him. Then why did they presume to confer this right on the Lord Chancellor? "Oh, but we have a right," continued the hon. and learned gentleman, "to make the chancellor do what we please, and to act according to our will; but we have no power to permit the Prince of Wales to act according to his will." By this doctrine, they had the power to appoint themselves regents, but no power to appoint the heir apparent. Monstrous and indecent incongruity! Upon this occasion, he should freely admit, that by addressing the Prince of Wales to take upon him the exercise of royal authority, they did an informal act; but it was an act which the necessity of the case was sufficient to justify. To make the chancellor put the Great Seal to the proposed commission was also informal. Let the two acts be examined and compared. Do the first, and the prince instantly holds the parliament, the legislature is complete, and the informal act may be ratified. If the Chancellor puts the Great Seal to whatever bill the two Houses shall pass, not a step is gained; for this, in its very nature, is unconstitutional and inefficient; you propose one means, we propose another. Our proposition instantly re-produces legislature, your's a monster unknown to the constitution. We do all that the necessity requires; you do infinitely more; and here we come to the maxim, that the power which necessity creates necessity also limits. We do but one informal act; you, two or more. You proceed to choose an inconvenient regent for the purpose of getting at the convenient regent, whom we reach at once. We proceed to limit his power, if it must be limited, legally, when the legislature is complete. You proceed to do this, when there exists in the country no power that is competent to the measure. You do that by a fraud and a fiction, which we do constitutionally and legally. We do that with the perfect organs of the legislature, which you cannot do without breaking through the real functions of the two Houses of Parliament.

Mr. Fox concluded with some observations on the words of the Resolution. He had, he said, in the course of this discussion, thrown out an opinion, that a right attached to the heir apparent to exercise the functions of royalty, during the incapacity of the King, and that the two Houses should recognize this right, and put him in possession of it. In opposition to this opinion, the two Houses had come to a resolution, that they alone possessed the right of nominating to the Regency; but at the same time declaring they thought the Prince the most proper person to be appointed. Bowing to their decision, he now wished them to go on, and to appoint the Prince regent. Instead of this, what was the language and spirit of the next resolution? That they have no right, that they cannot appoint him. They must first do what never was done before in the history of this country; they must first

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form themselves into a legislature. Thus they first make a declaration of a right purely abstract; and having made it, they shrink from the exercise of the right they have arrogated. He then warned the House against the adoption of specious pretexts, by which, under the colour of original principles, they were to assume powers inconsistent with the spirit of the constitution. There was no way so certain of bringing the popular branch of the legislature into popular odium, as by deviating from the precise path marked out for it in the constitution, and straying within the limits of the other two, which it was their duty to watch, but never to invade.

Mr. *Pitt* lamented that any circumstance, more especially that of ill health, should have prevented the right hon. gentleman from delivering his sentiments so fully as he himself could have wished. It was but justice to own, that through the whole of his reasoning, he had avoided every appearance of asperity or unnecessary warmth, and had pursued it with that candour, perspicuity, and strength, which was likely to give the greatest possible weight to his argument. He was nevertheless not afraid of following him, and showing, that the grounds on which he had proposed the Resolution, were such as would bear it out, whether reference were had to precedents and practice, or to the principles of the constitution. He could not help remarking the singular and contradictory manner in which the precedents had been treated. In the first instance, they had been pronounced to be wholly irrelevant; and now they had been admitted as authorities, not merely in point against the mode of proceeding which he had submitted to the House as the most constitutional and the most eligible, but as clearly establishing the direct contrary. To expose the inconsistency of such a mode of argument, it was only necessary to state for what purposes they had been produced; by which it would appear how far, whether individually or collectively taken, they answered those purposes. They had been produced, in the first place, to show, that, in all cases of interruption or suspension of the executive government, the right of providing a remedy was in the two remaining branches of the legislature; and, in the second place, that, in infancy or infirmity of the sovereign, the will of the king, had always, in form of law, been made the instrument of sanctioning the acts of the executive power, by whomsoever advised or directed. In this manner, by a commission under the Great Seal, had parliaments in such cases been called together in former times, as appeared by the precedents, and their acts were sanctioned by the royal authority, although the King was incapable of exercising any judgment, discretion, or will of his own. The present parliament was more regular in point of form, inasmuch as it wanted no such power to call it together, being legally summoned and assembled without it. The right hon. gentleman had argued, that this power of putting the Great Seal to a commission for calling a parliament, when there was none, was so much considered as the right of the first prince of the blood, in cases of the minority of the King, that it had not even been thought necessary to grant an indemnity for having done it, and consequently it must have been considered as a legal act. The first part of the reign of Henry 6, showed that he was mistaken; for, a commission for calling a parliament at that time had been afterwards ratified by parliament; and there were other instances of such subsequent ratification, where the Seal had been put to commissions by the first prince of the blood. Since, therefore, from the general tenour of the precedents, the right of providing for any temporary deficiency in the exercise of the executive government, appeared to have been vested in the Lords and Commons, as the representatives of the nation, what reason could be assigned for any thing to be done before parliament proceeded to judgment on the case before them? The laws of the constitution, said the right hon. gentleman, had not been heard of till after the first battle in the civil wars of the duke of York; and yet, after that battle, parliament thought fit to act in the name of Henry 6, a circumstance which surely made against his own argument. He admitted that the circumstances of that period had been fairly stated, but he differed from the right hon. gentleman in the application which he had made of them, and contended, that the principle resulting from the proceedings of parliament then was such as ought to govern the proceedings at present. He agreed, that what had been done from motives of policy to protect the nation from invasion by a formidable rival, and to prevent the return of the abdicated monarch, ought to be laid

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aside from their consideration at present; but, the two remaining branches of the legislature, on that occasion, had not restricted themselves to a simple address to the prince of Orange to accept the crown; they felt not only that they must have a king, but that they must have a king on certain terms and conditions. They did what amounted to a legislative act: they came to a resolution to settle the crown, not on the prince of Orange and the heirs of his body, nor on the princess Mary and the heirs of her body; but on the prince and princess jointly, the authority to be exercised only by him. Here it was evident, that whatever the necessity of the case required at that time, the Lords and Commons possessed the power to provide then, and that whatever the necessity of the case demanded at present, the power belonged to the Lords and Commons to supply. But, although the application of the principle was denied, the form of the proceedings was recommended as a pattern. The circumstances of the case were widely different. The throne was vacant then; but it was full now, and therefore the address was not a precedent in point of form.

A right hon. gentleman who had spoken early in the debate, seemed unwilling to allow that the period of the Revolution or the proceedings of that time had any thing to do with the present question; but the right hon. gentleman to whom he was replying thought the address of both Houses on that occasion proper, and a fit precedent to be followed, because by the 13th Charles 2, they could not act without the king. That statute said no more, and could never be understood to mean any more than that where there was a King, the Lords and Commons could do no legislative act of themselves; but it could not possibly supersede necessity, and they did act without a king, because there was no king to act with them. But, says the right hon. gentleman, they only did so after the throne was vacant. The King, by attempting to govern contrary to law, by breach of the compact between the governor and the governed, had forfeited the throne, and therefore the two remaining branches of the legislature were called on to act from the necessity of the case. But, was the throne now vacant, or would any man venture to assert, that it could be vacant by any other means than by forfeiture? And yet, the right hon. gentleman observed, that there might be cases in which the personal exercise of the royal functions may be interrupted or suspended, and then the Lords and Commons have no power to act till it be restored, because the 13th of Charles 2 says that they cannot. The same principle which justified the proceedings at the Revolution must justify the proceeding at the present period; and therefore the 13th of Charles 2 might as well have been alleged against the Revolution, as opposed to the proceedings under their deliberation.

The right hon. gentleman had also been pleased to assert, that whatsoever difference might arise between us as to the mode of proceeding the most proper to be adopted, the first step must necessarily be informal; and that mode must, of course, prove the best which would soonest do away the informality, and, at the same time, conform to the necessity of the case. This, Mr. Pitt remarked, brought him to the true grounds on which the question was to be argued, and on which they might fairly come to a decision. By the right hon. gentleman it was said, that the Prince of Wales might represent the King by a commission under the great seal. This was, indeed, a most singular argument when referred to the principles on which it was founded. The two Houses were to put themselves as soon as possible in a capacity to legislate, because they could not proceed to any length without the Royal authority, and the best and most effectual mode of doing this, rested on a principle, that any act in the King's name, without his knowledge, was a coarse fiction, a mere legal forgery, not to be endured. If it were really so, what was the Regent to do? Was he to act in his own name or in the King's? In his own name he could not act without first dethroning the King, and in the King's name he could not act without recourse to this reprobated fiction. If gentlemen who argued thus knew their own principles, they proved the impossibility of appointing any Regent. What, then, was the reason of that principle, which was sanctioned by the practice of the constitution, and the sages of the law, which had been treated with so much disrespect, and twisted and distorted into so many shapes of absurdity? His hon. and learned friend had truly told them it was that fiction which governed the proceedings of the courts of justice, which protected their dearest rights and properties, and which resulted from the nature of here-

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ditary monarchy—that principle which supposes the same power to pass instantly in succession from one person to another, and that the political capacity of the King is always entire—that principle which preserves sacred and inviolable the person on the throne, and has protected it amidst the imbecility of infancy and the decrepitude of age. Certain forms of law were evidence of the will of the King, and wherever they appeared, could not be averred against. Of this nature was affixing the Great Seal; and if the Chancellor were now to put the Great Seal to any act, it could not be contradicted—its legality could not be disputed; it must be received by the courts of justice, and proceeded on as law. But the personal imbecility of the King being known, and that he is incapable of giving any command, the Chancellor would incur such personal danger by an action of that sort, as would undoubtedly deter any man in his senses from committing it. The highest authority in the nation was the great council of the nation; and if they thought proper to signify the will of the King, there was no legal fiction.—The comparison of the two recommended methods of proceeding was sufficient to enable them to decide which was preferable, and that they had already voted it to be their right and their duty to provide for the temporary exercise of the executive power in such manner as the exigency of the case might require. Having recognized their own authority, would they give authority to another person to curb them in the use of it? Having declared what their right and their duty were, could they renounce any part of that right and that duty?

It had been observed by the right hon. gentleman, that the person of the King could not be represented in Parliament unless he possessed full parliamentary powers, the power of assembling, proroguing, and dissolving it. The noble lord had gone farther, and remarked, that he could not be represented in Parliament without all the civil and military powers annexed to the prerogative; and to reconcile the House to the granting of those powers, he added, that the Regent would not use the power of dissolving the Parliament. Mr. Pitt was going on to argue on this point, when being set right by Mr. Fox, as not having stated lord North's words correctly, he said he would not waste time on such minute differences.

When powers were once given, it was impossible to say how they might be exercised. The Regent might fill the other House with new Peers, while they were deliberating whether that power should or should not be limited. The powers to be given him ought to be discussed, while the House had the power of deliberating with effect. With many it was a doubt, whether very extensive powers ought to be given, during a short regency, as they all hoped, and wished it might prove; and, if they acted honestly, as their duty to the sovereign and regard to the public dictated, they would decide that first. If they acted otherwise, and should afterwards, on deliberation, be of opinion, that all the powers of the prerogative were not necessary in such circumstances, where was the remedy, when they had given them all? To give any part of them, arose from necessity, and they went beyond necessity, if they gave more than was sufficient. But it was said, they might be limited after they were given, and it was asked if there was any doubt that a Prince of the House of Brunswick would refuse the royal assent to any limitations which might be voted by Parliament? It had been argued also, as if the limitations had been perpetual, and they had been warned against invading the prerogative in its defenceless state. When the necessity of exercising the prerogative by a regent should cease, the limitations would cease likewise. But from expressions used in the course of the debate, it seemed to be the opinion of some persons, that the sovereign should never resume the exercise of the prerogative. If the full powers were given to a Regent, that circumstance might have a permanent influence during the life of the King, to weaken the prerogative. After all that had been said of consenting to limitations, had it ever been admitted, that any restriction would not be negatived by the Regent that would not be agreed to by the King? It would be highly improper in him to say who were likely to be the advisers of his Royal Highness as Regent; he wished he could so far distrust what had been formerly said by the right hon. gentleman over against him, as to doubt who were not to be his advisers. That right hon. gentleman maintained that the Crown ought to have a constitutional jealousy of the two Houses of Parliament, and he would not pay so ill or so dishonest a compliment to his Royal Highness, as

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to agree to give him power as Regent, which his advisers, whoever they should be, might induce him to misuse. Should the House give the whole power, it might be affirmed that they went beyond the necessity of the case; sacrificed their right and their duty to the prospect of resuming what they might not afterwards be able to resume; and violated that sacred maxim of law which was not lightly taken up, nor supported by vague authorities, but founded on the practice of ages, and the soundest principles of the constitution.

Mr. *Fox* said, he had never asserted that the name of the King could not be used without the will. For a person possessing the exercise of discretion, and consequently the power of assenting or dissenting, to use it was a laudable fiction; but for a person set up by Parliament to do a particular act or acts, without the liberty of exercising discretion, or dissenting if he thought proper, to use it was an extravagant fiction. In the one case, there were three branches of the legislature, in the other there were only two. On no occasion had he denied the force of necessity; but in case of necessity they ought to do as little as possible; and however paradoxical it might seem, he insisted, that by giving part of the prerogative, they did more than by giving it entire. He maintained still, that no parliament could legislate, unless the king on the throne has the power to dissolve them, and challenged any lawyer to prove, that a parliament, not liable to dissolution, can legislate.

Mr. *Burke* complained, that Mr. Pitt had alluded to some expressions of his, as implying that the King could never recover his full power, which, in their literal meaning, implied no more than the uncertainty of what the issue of his Majesty's disorder might be.

Mr. *Sheridan* thought he understood, and could remove, the doubts that had been stated by some gentlemen respecting the effect of the address proposed by the amendment. It was conceived by some, that by voting for the amendment, they decided on the question of a limited or unlimited regency; but the case was not so, for if they voted in favour of the original resolution, they virtually admitted, that limitations were necessary. Which ever way they proceeded, the opportunity and the security of making limitations were precisely the same. The Chancellor of the Exchequer had said, that the long disuse of the royal negative was no security that it would not be revived. The right hon. gentleman knew, from his own experience, that the powers of the prerogative might be abused, and therefore it became him to be on his guard. If you doubt the fact, he might say, look at my conduct: recollect under what circumstances I dissolved a parliament, how lavish I have been of the honours of the peerage, and say, that the powers of the prerogative may not be abused if you can. The right hon. gentleman observes, that the prince may dissolve the parliament, without consenting to limitations. The first act of his regency ought to be, to consent to limitations; and was there a man who believed he would not? But in imposing restrictions, some delicacy was requisite, for every restriction that was not necessary, was not a limitation, but an insult. Was the right hon. gentleman in such haste to impose restrictions, because he feared that he could not carry the limitations which he meant to propose, unless he were minister? Or was he apprehensive that parliament or the prince would forget to do their duty? From some such fear, or unworthy suspicion, his haste must proceed. What provision was made, if the prince should refuse to be regent, on the right hon. gentleman's terms? Supposing him not to refuse, would he withhold his consent from restrictions when regent, under which he would consent to accept the trust? Would any one advise him to say, I accept the regency under the limitations you propose, which I think are improper, and which I hope parliament will annul?

The House divded:

Tellers.

Yeas	Mr. Neville Mr. Steele	251
Noes	Mr. Grey Lord Maitland	178

The original resolution was then put and agreed to; after which the several resolutions were ordered to be communicated to the Lords at a conference.

Further Proceedings in the House of Lords on the King's Illness.] Dec. 23. Sir Francis Molyneux appeared at the bar, and informed their lordships, that there was a message from the Commons. The messenger being ordered in, the marquis of Worcester, with several members, came

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to the bar, for the purpose of requesting a conference; which, after the usual forms, was agreed to. The House then adjourned during pleasure, and the Lord President, Lord Privy Seal, duke of Richmond, the two principal Secretaries of State, and several other lords, managers appointed to carry on the conference, withdrew; after a short time they returned, and the House was resumed, when the Lord President acquainted their lordships, that the managers on the part of the Commons had delivered to him three Resolutions, to which they desired their lordships concurrence viz.:

1. "That his Majesty is prevented, by his present indisposition, from coming to his parliament, and from attending to public business, and that the personal exercise of the royal authority is thereby for the present, interrupted."

2. "That it is the right and duty of the Lords spiritual and temporal, and Commons of Great Britain now assembled, and lawfully, fully, and freely representing all the estates of the people of this realm, to provide the means of supplying the defect of the personal exercise of the royal authority, arising from his Majesty's said indisposition in such manner as the exigency of the case may appear to them to require."

3. "That for this purpose, and for maintaining entire the constitutional authority of the King, it is necesary that the said Lords spiritual and temporal, and Commons of Great Britain, should determine on the means whereby the royal assent may be given in parliament to such bill as may be passed by the two Houses of Parliament, respecting the exercise of the powers and authorities of the Crown, in the name and on the behalf of the King, during the continuance of his Majesty's present indisposition."

It was then moved, "That this House do, on Friday next, resolve itself into a Committee of the whole House, to take into consideration the State of the Nation," which was ordered accordingly. The Reports from the Committee appointed to examine the King's physicians, and from the Committee appointed to search the Journals, &c. were referred to the said Committee.

Lord *Loughborough* said, that although he did not intend to oppose, for the present, the last resolution, he could not avoid suggesting a few remarks that had occurred to him; and first, the terms of the resolutions of the Commons struck him with infinite force. They had not, as he understood had hitherto been the invariable practice, left any kind of blank; they had not, in this instance, resolved for themselves only, but for their lordships also. This, in his opinion, was a new method, and their lordships perseverance in their right to determine for themselves was of too much importance to be trifled away. Leaving this for their lordships' consideration, he should trouble them with a few words upon the "Report of the Committee to search into precedents" a report, to say no worse of it, which was the most inaccurate that ever was produced. In the first place, under the head of precedents in cases of infancy, were two Acts alluded to in the 10th and 13th of Richard, 2 whereas that monarch was of full age some months before the passing of the first, and consequently four-and-twenty on the passing of the latter. A little farther under the head of absence, would be found an Act in the reign of Edward 2 when the king was a close prisoner, and soon after which he was absolutely deposed; this, he admitted, was not to be found upon the rolls of parliament; for, unfortunately, the 1st of Edward 3, as well as the 1st of Charles 1, had, by some means or other, been mislaid; but if these rolls had been searched a little farther, which certainly ought to have been done, for the elucidation of every precedent adduced, the third of that king would have sufficiently explained it. But what surprised him the most was, a case brought forward under the head, "or otherways," &c. This was stated to be an act of the grand council of the nation, a description he confessed himself entirely at a loss to understand, that being an appellation which he had always conceived due to parliament only; yet even here, had they only turned to the very next roll of parliament, they would have found that, instead of this being considered as a legal act, a bill of attainder had been passed against those who formed it; it had constantly and invariably been reprobated from that time to this, and how it could have been thought worthy of being alluded to at this moment, he was at a loss to conjecture. At a proper time he should move for a committee to take the report into consideration, supply the omissions, expunge the extraneous parts, and correct the absurdities and inaccuracies with which it abounded.

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Dec. 26. The House having resolved itself into a Committee of the whole House, to take into consideration the State of the Nation, the first Resolution was put and agreed to. On the second Resolution being put,

The Earl of *Hopetoun* adverted to the several topics which had come under the notice of the two Houses. He said that whether the right of the Prince of Wales to the Regency, which had been contended for by some, and resisted by others, were founded or not, or whether the right of appointing a Regent lay with the two Houses, it was the unanimous opinion of all, that the Prince was the person who ought to be named Regent, with such powers as the two Houses should think that the exigency of the case might require. He sincerely lamented that the right of the two Houses had been forced to a decision; yet, as this circumstance had occurred, he thought that the Resolutions of the Commons were entitled to his support.

The Earl of *Abingdon* said: My lords; Upon the present doleful occasion, I have heard of doctrines, that whilst I recount them in my mind, I stand almost petrified with astonishment. *Animus meminisse horret.* It has been said, that deliberation in the two Houses of Parliament, at this awful crisis is not of necessity; that the moment it was established by the report of the physicians, that his Majesty's health would not at present permit him to discharge the duties of his trust, the Prince of Wales, *de jure*, succeeded to that trust; and that although deliberation for form sake might be tolerated, deliberation was matter not of essence, but of form only, and must end in nothing else. And these, good gracious God! my lords, are the doctrines of that very man who but a while ago was plucking the crown off the head of the monarch, and subdividing it between himself and a self-formed heptarchical junto with himself in this and the other House of Parliament. Of that very man, who calls himself a Whig; of him, who, whilst he is in the very act of erecting a monumental pillar in honour and to the memory of the glorious Revolution, is, by his doctrines, tearing up from the very centre of the earth, the sole and only ground upon which that Revolution stands. Such are these doctrines, my lords, and being such, I will not reason upon the subject; I will assert dogmatically, I will say, that the Prince of Wales, by the laws and constitution of the land, has no more right, as Prince of Wales, to exercise the functions of the Crown, than any other subject of the realm; and I challenge the stoutest lawyer of you all to controvert this position. His right is hereditary, and hereditary only, and that right is posthumous; and let us even see what this posthumous right is. The crown of England is hereditary, but it is hereditary under limitations, restrictions, and provisions. The inheritance, says sir William Blackstone, is conditional; and it is so by the express law of the land; for by the statute of the 1st of William and Mary, s. 2, c. 2, it is enacted, "That every person who should be reconciled to, or hold communion with the see of Rome, should profess the Popish religion, or should marry a Papist, should be excluded, and be for ever incapable to inherit, possess, or enjoy the Crown; and that in such case the people should be dissolved from their allegiance, and the Crown should descend to such persons, being Protestants, as would have inherited the same, in case the person so reconciled, holding communion, professing, or marrying, were naturally dead."—Now suppose, my lords, a case to occur within the provision of this statute, and then let me ask your lordships, who is to be the judge of the person so incapacitated and excluded by this statute? Is it the Parliament (as it has been craftily and subtlely said, in order to avoid the energy of this statute), because the King is one of the constituent parts of a parliament? Will a king exclude himself? No, no, my lords, that exclusion appertains to us, and to the other House of Parliament exclusively. It is to us it belongs, it is our duty. It is true, the power to alter or new-model the succession, is by law given to the King and Parliament; and it is likewise true, that by the Act of the 6th of queen Anne, c. 7, any person who shall maintain the contrary of this shall be guilty of the penalties of a premunire. But what is the supposition of law in these cases? It is, my lords, that that King, so standing at the head of his Parliament, has not fallen under the disabilities of the afore-mentioned Act of William and Mary, that he sits on his throne under the laws and constitution of the country, that he is a King *de jure*, as as well as *de facto*; but if he has fallen under the disabilities of that statute, then, I say, my lords, that the right to new-model or alter the succession vests in the

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Parliament of England, without the King, in the Lords and Commons of Great Britain solely and exclusively. This is Revolution doctrine, my lords; this is my doctrine, though I do not profess myself a Whig, though I am not a member of the Whig-club, nor have I subscribed to the intended politico-patriotic obelisk that is to be at Runnymead. Neither am I a Tory, but I am what I glory in, and will end my life in, I am a well wisher to, and a supporter of, the British constitution.—And if this be so where there is an hereditary right, where that right has taken place, and when the crown is already on the head of the King, what shall we say where there is no right at all? My lords, I do again assert, that the Prince of Wales has no more right to the Regency of this country, otherwise than as the two Houses of Parliament shall be pleased, out of their grace and favour, to bestow it upon him, than I have: he may have pretensions superior to others, he may have a claim, but he has no right. His right to govern is hereditary only, and the demise of the Crown, thank God of Heaven, has not yet taken place! May the King live for ever, my lords, and let the Established Church of England, let the hierarchy of this country say, Amen!—But, my lords, when I have said this, I do not mean to say, that the Prince of Wales should not be invested with this authority. What I mean to say is, that the right is yours in conjunction with the other House of Parliament, and you will do with it as you shall think best. But in that doing, let me conjure you to be wary, to be circumspect; the concern is weighty; the case is magnitudinous, and of importance infinite. Feel for yourselves, my lords, feel for the nation; but, above all, feel with the pity of men, for the unhappy state of the monarch himself. Remember, he may be restored to his health, and let us never give up the idea, that "old Lear shall be King again." Remember too, my lords, that by a vote of ours, we are now about to dethrone a King. But will his restoration to the Throne depend upon our vote? Here, my lords, pause and think for a moment. I trust it may. But what has been, may be again. I have read a little of history, and have there found, it is easier to give, than it is to revoke power when given; and especially too, when placed as it may be, in the hands of those who are for or against the rights of the Crown, as it best suits with the views of their own ambition. Again, in cases of common lunacy, the next heir is not entrusted, from the wisdom of the law, with the guardianship of the lunatic. In the case before us, who are to be the responsible conservators of his Majesty's health, and what the conduit pipes through which this intelligence is to be conveyed to us? My lords, the greatness of the subject calls for united wisdom, and exceeds individual ability to discuss. But inasmuch I have discharged my duty.—A single word more, my lords. Let the Prince of Wales reflect, that he, as George the 4th, may of himself have a son, who will be Prince of Wales, so making the case of his father his own; and then let him judge who are, upon the present occasion, his best and truest friends; the ministers who act as they do, or the opposition who advise and lay down the doctrines they have done. It is said that his Royal Highness is a man of sense and discernment. To the wise therefore, my lords, a word is enough.

Lord *Rawdon* said, that if his declaration on a former day, that he would be the person to stand forward and singly take the sense of their lordships on the question of right, should any attempt be made to discuss it in that House, he could at that time have thrown him under the necessity of making an apology, such a necessity was now completely done away by the speech which the House had just heard. It was now evident, that the vague and extravagant conjectures of the ignorant and uninformed, had made such an impression that they had even found their way into that House, and helped to furnish subjects for parliamentary declamation. For his own part, he would make no farther remarks on the subject, but would proceed to declare his objection to the second proposition, and also to the third, which was so connected with it, that it would be impossible not to consider them both at one and the same time. Both those propositions appeared to him to be equally unnecessary and unwarrantable. From the former of the two, it would be imagined, that some claim, denying the admitted right of all free men, in all times, to choose their own form of government, and in contradistinction to the right of the two Houses, had been set up in a regular way so as to render a declaration of the right of the two Houses necessary. That no such claim of right had been brought forward in any regular way, in either House no noble lord would

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venture to deny. Nay, their lordships had heard, through the medium of the highest possible authority, a declaration on the part of the Prince of Wales, that he never meant to assert any such right, and their lordships had been urgently desired from a regard to the feelings of the royal family, not to agitate such a supposed claim. At the moment when every one of their lordships would cordially join in expressing their heartfelt sorrow for the lamentable situation of their sovereign, were any of them willing to show that they were so destitute of delicacy, and of manifesting a due attention to the feelings of the royal family, as to aggravate their distress, by unnecessarily entering on a discussion which had been, on the part of that family, deprecated with so much earnestness? Before they could vote the third proposition, the House ought to have before them a precise description of the proceedings that the resolution was meant to be followed up with; for as the resolution stood, the wording of it was so ambiguous, that it was impossible to be aware of the sort of proceeding which was meant to be grounded upon it. Men's minds began to be inflamed, and the passing of the three propositions would lay the grounds of so much future mischief, that it would convulse the nation from one end of it to the other, and endanger the existence of the constitution itself. To avert therefore so fatal an evil, and with a view to render it unnecessary for the House to vote either the second or third resolutions, he should move such an amendment to the first resolution as would meet the unanimous sentiment of the public, and, he believed, of both Houses of Parliament. He then moved, that the following words be added to the first resolution: "That an humble Address be presented to his royal highness the Prince of Wales, praying his Royal Highness to take upon himself, as sole regent, the administration of the executive government, in the King's name, during the continuance of his Majesty's aforesaid indisposition, and no longer."

The *Lord President* [Earl Camden] observed that, unless he greatly mistook, the amendment was fraught with an intention to evade the discussion of as important a question as ever had been agitated in parliament; a question concerning the right of the Prince of Wales, as heir apparent, to exercise the sovereign authority during the incapacity of his Majesty. That such a right existed, was what he had never heard, before he heard that the doctrine had been broached in the other House of parliament; and as soon as he learnt that it had been asserted, he had stated it in debate in his place; and however irregular his introduction of it might have been, their lordships had heard a noble and learned lord, whose opinions were deservedly of great weight and authority in that House, contend for its existence, with a considerable degree of gravity and earnestness. If such a right did attach to his Royal Highness, it ought to be recognized, because, in that case, parliament, as he had before said, were usurpers of the rights of another person, and were deliberating in a case which it did not belong to them to discuss, but which, as the doctrine had been laid down, it was their duty only to adjudicate and declare. He was extremely sorry that the question of right had been agitated; but having been once broached, it must be decided that men's minds might be set at rest upon it. As to any mischiefs which could arise from it, he saw none; but if it were true, that mischiefs would be produced by its agitation, those mischiefs were already produced, and the alarm ought to be quieted. A learned lord (Loughborough) had thought proper, during a former debate, to animadvert upon a supposed incorrectness of the report from the Committee of Precedents. He knew not that there was any real ground for such a charge against the report; but he would venture to say, that if in the preparation of it, any error had escaped, it was perfectly unintentional. He would add also, that he did not think that if the fact were so, that any material conclusion could be drawn from it. Their lordships, he trusted, need not be cautioned against depreciating the precedents which were before them, because the same arguments that would support an attack upon them, would go the length of calling the validity of Magna Charta in question.—Earl Camden proceeded to point out in what manner the precedents bore any sort of analogy to the present situation of affairs, and observed upon those which bore the closest analogy. The first of these was a precedent of Edward 3, who had been declared regent in the life-time of his father, and had a council appointed to assist him. The next was upon the death of Henry 5, which he conceived to be a good, a substantial, and a legal precedent, the proceedings of parliament at that period being

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as grave and formal as at any period of our history. His lordship went through the detail of the precedent in all its points to the exhibition of the claim of the duke of Gloucester as regent, of right, in the absence of his elder brother, the duke of Bedford. The duke refused to attend parliament, till he knew what his authority in parliament was, and made his claim as nearest of kin to the infant monarch in the absence of his brother, the duke of Bedford, when the parliament in reply, in the most unequivocal terms, declared, that the duke had no right, either of his own, from relationship to the king, or by virtue of his brother's will, but that they had appointed him protector and defender of the kingdom, meaning by the name expressly to guard against any idea of their acknowledging any right in him to exercise the royal authority. Let any one of their lordships point out any difference in respect to such a right as had been asserted to be in the duke of Gloucester, in the infancy of Henry, between an heir apparent and an heir presumptive, or between an interruption of the exercise of the royal authority through infancy, or incapacity from indisposition. The same precedent which had analogy to the one, bore analogy to the other. For his own part, he should contend for the quietude of the times whence this precedent was drawn, it being in a moment of internal peace, when a king, deservedly the idol of his people, and when Bedford and Gloucester, the two princes nearest allied to Henry 6 were men of high fame, one of them the most able, the other the most popular character of his day. The next precedent was that of the 32nd and 33rd of Henry 6, when, in consequence of the king's sickness, the duke of York was appointed regent, exactly with the same limitations which had been put into the patent appointing the duke of Gloucester protector. Earl Camden adverted to all the circumstances of the duke of York's taking up arms and marching an army of 10,000 men to London, upon the pretence of obtaining a redress of grievances, his being deceived by queen Margaret and Somerset, and his retirement to his castle in Wales, where he lived almost two years, before he returned again to London, and was appointed regent. He expatiated on the wisdom of our ancestors, as manifested in their constant endeavours to restrain ambitious men from aiming at the government, by shackling them with councils of regency, and fettering them with such other restrictions as should prevent them from grasping at the whole of the royal authority. He begged, however, that his observations of this tendency might be considered as applicable solely to the wisdom of our ancestors, and that he concurred with them in thinking that to be the true line of policy. He meant not to glance at the present heir apparent, who he was sure would prove the last man desirous of assuming powers, which the two Houses would not think it consistent with the safety of the crown, or of the nation, to forego or suffer to be taken out of their hands, as representatives of all the estates of the people. Such was the infirmity of human nature, such the natural proneness to ambition, and such the inordinate thirst after dominion and power, that it behoved the two Houses always to regard an opportunity to advance the objects of such passions with jealousy, and to provide restrictions to check their progress. With regard to the Prince of Wales, so amiable had been his conduct, that it put suspicion at rest, and rendered the task of limitation less difficult. There was no intention, in reality, to withhold from his Royal Highness above one or two instances of exercising royal authority, and those, such only, as a due regard for the preservation of the crown on his Majesty's head, and the securing to him the power of resuming the exercise of all his royal prerogatives, when he should be restored to health, indispensably demanded. His Royal Highness, would have the power of dissolving parliament, of appointing his own political servants, of entering into foreign treaties, and, in fact, all the power necessary for the carrying on of a strong and vigorous government. In the course of the proceedings which had taken place, earl Camden trusted it would be admitted, that the present administration had acted impartially, and with no view to promote their own private interests, For his part, he was arrived at an age, when a retired life would better suit his years, and when he might have an opportunity of serving his country to as much advantage some other way, as he could do in office. Whenever the new administration came in, however, he would be bold to say, that they would not find the present ministers form themselves into a malignant, or an unprincipled opposition. Whoever were to compose the new administration, his sincere and earnest prayer

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was, that they might act as conscientiously as their predecessors, and be able to serve their country to infinitely more advantage.

Viscount *Stormont* said, it was not his intention to follow the learned lord through all the historical detail that he had favoured the House with, as he did not pretend to more than a general knowledge of the history of his country. The Committee appointed to search for precedents, had undoubtedly furnished them with a considerable number; but, among them all, there was not one that came sufficiently near to the present calamitous situation of the country, to be considered as a precedent in point. Some of the precedents in the report were so extravagantly wide of the present case, that it was impossible to guess the reason of their having been cited, unless it were to prove how wildly their ancestors had, in the elder periods of our history, proceeded, and with how little regard to the law of the land, or the constitution of the country. As no precedent could be found, that could, with safety, be followed, it behoved their lordships to adopt that measure which should least affect the land-marks of the constitution. The learned lord had passed over all the precedents preceding the reign of Edward 3, from a conviction, no doubt, that they were selected from times full of anarchy and confusion, and from a laudable attention to that old generous maxim "de mortuis nil nisi bonum." The learned lord had, however, rested a good deal of his argument on the two precedents taken from the early part of the reign of Henry 6, and from the 32nd and 33rd of the same reign, because as the learned lord had declared, those were times of peace and tranquillity. Was the period in which Henry 6, while an infant, ascended the throne, a period of peace and tranquillity? A period when the flower of our nobility were in France, together with almost the whole of the English army, and when the best blood of the country had been spilt in that kingdom, fighting for the crown, and protecting those provinces which the gallantry of Henry 5 had acquired. Did their lordships remember what had passed in France, when Charles 6 was afflicted with a similar malady to that under which his Majesty laboured, and when that rich kingdom had been torn and distracted by the two powerful parties, the one headed by the duke of Burgundy, the other by the Dauphin? the Burgundians had got possession of the king, and carried him about as a pageant, making the most shameful use of his name, and the most wanton exercise of his authority, while the Dauphin, by his wisdom and valour, recovered the crown, and laid the foundation of the greatness at which France had since arrived. Did their lordships recollect, that this country was deeply engaged in those contests, and could the period in which they were carried on, be called a period of peace and tranquillity to England? Were those peaceable times also, when Richard duke of York was chosen protector of the kingdom, and exerted every nerve which tyranny and corruption could call into action, to further his ambitious designs upon the crown? The duke of York had been held up by the learned lord as a character worthy of imitation; that duke of York, who, though less bloody, was scarcely less immoral, insidious, and unjust, than Richard 3. As well might that scene which they had all seen so frequently well acted, in which Richard 3 is discovered, leaning on two churchmen, when visited by the mayor and citizens of London, be extolled as a proof that Richard was a pattern of piety, as Richard duke of York, who after the battle of St. Albans, where he had wounded his king, and taken him prisoner, took a solemn oath at Paul's Cross that he was and ever had been, liegeman to his prince, be held up as an example of loyalty. With as little regard to fact also, could the precedent of Edward 3 be said to be a precedent chosen from peacable times, because as their lordships must remember, Edward 3 put his signature to a commission when he was only 14 years of age, at a time when his father had been forced to become a fugitive, through the intrigues of Mortimer and queen Isabel, and when the country was distracted with all the horrors of a civil war. The precedents, therefore, to which the learned lord had pointed, instead of being taken from peaceable and undisturbed times, were precedents selected from periods of our history peculiarly unsettled and unquiet. But, though the fact were so, it was little to the purpose, because, no one of them applied; the legislature of those times having been complete, whereas now there were only the two Houses of Parliament assembled.—Was it possible for the learned lord to produce a single instance, in which the heir apparent had been of full age and capacity to govern? It was needless, therefore to

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dwell upon precedents, which had no analogy to the present moment; the spirit of the constitution must be referred to, and that line of conduct adopted, that should, upon examination, be found to be most congenial to it. In that point of view let the amendment, proposed by the noble lord be considered. The ability with which the noble lord had opened his amendment, had excited the admiration of every one who heard his argument, and justly entitled the noble lord to that compliment, which had been paid to John duke of Argyle; that he was by nature qualified "To shake at once the senate and the field."—Let the Committee consider whether, in attaining an object, about which there was but one opinion, they would prefer a circuitous mode to a mode direct, obvious, plain, simple and easy. If they adopted the mode suggested by the Commons, they would assume the functions of the third branch of the legislature, and trench upon the prerogatives of the Crown, which it was as much their duty to respect and support, as their own privileges, or those of the other House of parliament. With regard to the argument that the Prince of Wales ought to be declared regent, under certain limitations and restrictions, let their lordships recollect the difficulty to which that sort of consideration would lead. It would be impossible to admit, that the prerogatives of the Crown could be divided, and some of them reserved, while others were given to the regent, and at the same time to contend, that the regent would nevertheless, be able to carry on a vigorous government, without opening a door to an argument, which, however cogent, he did not mean to press upon their lordships: that if there were prerogatives annexed to the Crown, which were not inthem selves necessary to the energy and vigour of government, those prerogatives might be spared, and ought to be abolished; since the Crown no more than the regent ought to enjoy prerogatives which were admitted not to be essential to the benefit of the community. Every discussion of this sort would be precluded, were the noble lord's amendment adopted, and, what was not a less important object, harmony between the two Houses would be secured, while neither their rights, for which the learned lord had so strenuously contended, would be sacrificed or called in question, nor would the functions of the prerogative be assumed or invaded. Every noble lord who had spoken on the subject, had justly professed a veneration for the Revolution; why, then, would they not imitate that example, which they all professed so much to admire? The words of the amendment were precisely the same with those adopted by the Convention Parliament, when it was resolved to address the Prince of Orange, with the exception only of the reference to the incapacity of his Majesty; and surely, no one would contend, that the address voted to the Prince of Orange, implied that he possessed any other right to the throne, than that which he derived from the votes of the two Houses. Let their lordships turn to the debates in the year 1688, and they would see the miserable jargon introduced by the lawyers of that period. Lawyers, it was notorious, generally speaking, mingled so much of their legal refinements with political argument, that they made sad work of it. At the time of the Revolution, every distinction that sophistry could suggest and ingenuity invent, was devised and insisted on to mislead the House of Commons, and confound their judgment; but, the first men of those days, who, though not great lawyers, were great statesmen, swept away the cobweb distinctions of professional reasoners at once, and by dint of sound sense prevailed on the House to speak by their actions and come directly to the point, and declare the Prince of Orange king, a vote which, happily for the nation, was carried, though only by a vote or two. Viscount Stormont alluded to the turn and character of the debates of those days, and particularly mentioned the distinction taken by Mr. Finch, the ancestor of a noble lord then present, (lord Winchelsea) who, in arguing for a regency, had asserted, "that the throne was not vacant, but that king James was out of his understanding." In that debate, in which the two points in question were, whether the Prince of Wales should be declared regent or king, none of those members who supported the argument in preference of a regency, suggested one idea of limiting or restraining the regent, in any degree whatsoever. The second and third resolutions, as originally proposed, and as sent up by the Commons, clearly implied an idea that the two Houses had not only a right to decide electively, but to legislate for themselves, independent of the Crown, the third branch of the legislature: an idea which he dreaded, and which, he trusted, the Committee would never

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countenance.—If the doctrine that the two Houses could, in any instance, assume the functions and prerogatives of the Crown, were admitted, it must be admitted that they could do so in many, and it was not in human imagination to divine to how dangerous an extent so unconstitutional a practice might be carried. He reminded their lordships of the violence of the House of Commons in 1648, which had led them first to vote, that any resolution of their own, independent of the concurrence of the two other branches of the legislature should have the force of law, and afterwards to declare the House of Lords useless, upon their lordships refusing to concur with them in their resolution to bring the King to trial. The Commons had not been aware that they were, at the time, laying the foundation of their own ruin. Their proceeding, to be sure, had been rather blunt; but had they lived in times of modern refinement, how easily might they have solved their difficulty, sanctioned their design with the colour of law, and rendered it effectual, by only having recourse to the expedient now brought forward, and under pretence of a fiction of law, practiced that upon the Great Seal, which it did not become him in that House to mention in plain terms, and issued a commission in the name of the King, appointing commissioners to give the royal assent to a bill drawn for the purpose of bestowing legislative authority on the proceeding. How fatal might prove the effect of setting up such a pageant in lieu of the third estate! That being clearly the creature of the two Houses, it could not possibly exert any of those independent and important prerogatives, which gave the Crown constitutional power to resist the encroaches of either of the two branches of the legislature. Among other instances of its operating dangerously to the destruction of the royal prerogative, is was not the least worthy of attention, that the negative of the Crown, that great barrier set up by the constitution, for the purpose of arming the Crown with a powerful means of defence against any hostile attempts of the two Houses, was completely done away. The royal negative, it was true, had not been exercised by the Crown for a considerable length of time, but it was not a less important instance of the royal prerogative, and when the Committee were deliberating whether they should agree with the other House to assume the legislative capacity of the Crown, in such a manner as supposed the discretional power of the royal negative not to exist, and by implication admitted that it could be dispensed with, it was the duty of their lordships to weigh well the absurdity and danger to which the allowing such a fiction of law to pass, would expose them. He put the case, that the learned lord who now so worthily held the Great Seal, should choose, of his own accord, to fix the Great Seal to a patent of peerage; how would that House receive a peer so created? Would they not refuse to consider him as one of the peerage? [His lordship was here whispered, that the forms which a patent of peerage must undergo, as well as the person created a peer, rendered his hypothesis impossible.] He would put another case, which, he was sure, was correct: Suppose the learned lord who held the Great Seal, should affix it to a commission, declaring the royal assent to a bill, respecting which there had been much difference of opinion in both Houses; how were those who had opposed the bill, to contend against it as a law? He mentioned the statute of Charles 2, as expressly declaring that the two Houses could not legislate, without the consent of the Crown, and pronouncing, that any person who, by advised speaking, should affirm the contrary, should incur the pains and penalties of a premunire. There occurred to his mind another difficulty, and he did not see how it could be got over; and that was, the subscription of the royal signature to the commission to which the Great Seal was to be annexed, for the purpose of opening the parliament and passing a bill. It had formerly been held, that the King could not give the royal assent to any bill, but by being present in person in that House. In the reign of Henry 8, an act had passed, empowering his Majesty to give the royal assent to any bill or bills by a commission issued under the Great Seal, and sanctioned by the royal signature. In the present case, how would his Majesty's ministers be able to give their commission legal authority, without the royal signature? If they could do it in one instance, they could do it in more, and might proceed to a degree of enormity dreadful to be conceived. He urged the increase of difficulties which must accumulate, if the circuitous mode proposed by the second and third resolutions was persisted in. The land and malt-tax bills would soon be necessary to be passed, and he asked whether ministers meant to

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maintain their fiction, by using it as an authority for levying money on the subject? He insisted upon it, that however ably the argument might be urged in defence of the mode of proceeding recommended by the third resolutions, and however the real nature of that proceeding might be glossed over and disguised, to all plain men like himself, unacquainted with legal entanglements and fictions of law, it would appear to be neither more nor less than a direct attempt in both Houses to assume the exercise of the prerogatives of the Crown and legislate for themselves in defiance of an express statute, to which he had before referred. He called upon noble lords to point out to what difficulties voting the address would subject them. It would neither invalidate the rights of the two Houses, recognise the claim of the Prince of Wales, nor prevent their proceeding to pass a bill of limitations. With regard to the latter, the address moved by the noble lord by no means precluded such a bill; but, to attempt to pass it at present, would be indecent and unfair. Let them fill the third estate, declare a regent, and establish the royal authority, and then, if it should be thought necessary to restrain its powers, combat them in a manly way, when the royal authority was capable of defence, and could act for itself. The second and third resolutions had been argued on the grounds of political necessity and of expediency; two grounds that essentially contradicted each other; because the one was compulsory, the other optional, depending merely on the opinion of those who acted upon it. He denied that there could exist such a thing as political necessity, declaring that a moral, clear and intelligible necessity was an intelligible phrase, but that political necessity was not so, nor ever used as a fit ground for a parliamentary proceeding. He defined the distinction between necessity and expediency, and contended, that in the one case, deliberation might be had, in the other it could not. He warned the Committee, again and again, against the danger of countenancing any departure from the limits prescribed by the constitution to the two Houses, and mentioned the circumstance of the House of Commons having, in the reign of Charles 1, wished to have it allowed, that from that time forward, the officers of state should be named and appointed by the two Houses, observing, that just before the King had erected his standard at Nottingham a message was sent to him to obtain his consent, but Charles had thrown a die for the whole, and would not submit to hold his authority as sovereign, on limited conditions. Their lordships well knew the dismal scenes that followed, which ended in the dissolution of the monarchy and the constitution. He conjured the Committee to adopt the short and easy path of voting the amendment, in preference to the circuitous road chalked out by the second and third resolutions. He reminded the House, that all agreed in the propriety of declaring the Prince of Wales regent; why therefore should they differ about the means of constituting his Royal Highness to that office, when the readiest mode of doing it, with perfect safety to the constitution, presented itself to their hands. The learned lord had desired them to recollect that they were not merely called on to settle a temporary difference of opinion, but that they were deciding for posterity. He begged leave to join in the learned lord's request, and to urge it to their serious consideration with all the additional force which his poor abilities could give it. They were establishing a precedent, which, in times less enlightened than the present, might be used as the ground work of proceedings, the most fatal to the liberties of the people, and the existence of the constitution, that could be imagined.

The Duke of *Richmond* justified the third Resolution, and the means intended to be pursued under its authority, by the necessity of the case, and contended, that the two Houses would equally proceed to an act of legislation, whether they voted the Resolutions, which were a kind of guard against an unnecessary exercise of sovereign authority, under a fiction of law, and such an exercise of it, as the extreme exigency of the case made absolutely necessary, or voted the Address proposed by the amendment. He had the highest respect for the Prince of Wales, and had not the most distant idea that, were his Royal Highness declared Regent instantly, and by the means recommended in the amendment, that he would do any thing improper; but the duty they all owed to the Crown and to themselves, made it incumbent on them to guard against any possible danger, and to deliver such a precedent to posterity as should at once mark the extreme caution with which they had proceeded in a case of such infinite difficulty. If, without any

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such limitation or restriction, the Prince were instantly declared Regent, he conceived that the whole personal property of his Majesty would come into the hands of the Prince of Wales, and all his Majesty's servants, from the noble lords with white staves, down to the lowest page, might be removed. Nay, the very physicians who had the care of his Majesty's health might be changed. All his Majesty's wealth, likewise, might be seized and perverted from the uses to which his Majesty might have graciously intended to apply it. When his Majesty should happily be on his recovery, the knowledge of the alteration in the state of his household, and of his personal property, might have the worst possible effect; indeed, the reflection it might give rise to must be so severe, that it would be enough to drive men of sound minds out of their senses. He meant not to insinuate that his Majesty's person would not be safe in the power of the Prince of Wales: he was sure that it would. The strong marks of filial affection and tenderness which his Royal Highness had manifested during his Majesty's illness, were the most flattering proofs, that every token of kindness and care would be exerted by the Prince; but he was reasoning on the possibility of the case, and it was the duty of their lordships to guard against that abuse of power, to which, from the infirmity of human nature, every man was liable.

Lord *Hawkesbury* said, that the fictions in law which the noble viscount so much disliked, were practised in all times and in all countries. When Henry 6 became king at the age of only nine months, when of course it was impossible he should give an assent to any measure, he was, in contemplation of law, however, capable of every act of state and royalty; all writs ran in his name; he was the person, and not the Regent, who was mentioned in all grants and commissions, as giving power and authority; in his name the royal assent was given by the Regent to all Bills, and in his name was the nation governed, the laws administered, and taxes levied. The courts of law were open, and by fiction the infant king was supposed to be present among the judges, expounding the law and administering justice. All this surely was fiction, as great as could possibly be that of a commissioner acting under the authority of the two Houses, giving the royal assent to a Bill. Such a commissioner, like a regent, would derive his authority from the two Houses; and, like a regent also, he would give that assent in the name of the king, which the king was incapable of giving himself. If there was any absurdity in one case, there was just as much in the other; and an objection against one, on the score of absurdity, would lie full as strongly against the other. These fictions, he said, were countenanced by the wisest nations. Our neighbours, the French, gave a striking proof of this in the early part of the present century. After the death of Louis 14, the duke of Orleans was declared regent by the parliament of Paris; but, as if this authority could not be deemed legal, because it did not flow from the king, a *lit de justice* was held, to which the infant monarch, Louis 15, then four years and a half old, was carried to the parliament by his *gouvernante*, and was seated upon the throne, the duke regent standing by his side. The chancellor went up to him, and knelt to receive his Majesty's orders, which were communicated through the regent; then rising and returning to his place, he communicated the royal will and pleasure; and the edicts thus given, as if by a king of full age, were registered by the parliament; and from these edicts the duke regent derived his authority. At the Revolution, when the throne was declared vacant, none of these legal fictions could obtain; and therefore the courts of law were shut up, because, as there was no king, the royal presence in the courts of justice could not be supposed. But now the courts were open, all legal processes were carried on, and the judges held their courts as usual, because the king being alive, and the law knowing no incapacity in his politic character, it was not absurd to suppose his presence in the courts.—The argument drawn against the precedent taken from the early part of Henry 6th's reign, from the idea that the times were tumultuous, was not founded in fact; for though the country was engaged in a great foreign war, it enjoyed perfect tranquillity at home. Some political divisions, indeed, took place between the duke of Gloucester and his uncle, the bishop of Winchester, but then they never had been carried to such length as to affect the internal peace of the country. Indeed, these disputes had brought out one fact of some consequence in the present case. A charge was brought against the duke, that at the latter end of the

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reign of Henry 6, when that monarch was disabled by fits to which he was subject, from attending to public business, he, as son of the king, had assumed the government without the authority of parliament. Against this charge the duke defended himself, by admitting that such an assumption of power would have been criminal, but denying at the same time the fact upon which the charge was founded. The charge was made in Parliament, and referred to a committee of Lords, who made a report entirely in favour of the duke. Several other arguments were urged by the noble lord in favour of the Resolutions.

Lord *Porchester* charged the three resolutions with gross inconsistency. The first declared his Majesty incapable of exercising the royal authority, and the third supposed him capable of giving the royal assent to a bill. He called upon the noble lord who spoke last, to show him a precedent of a Prince of Wales, of full age and capacity to govern, who had not been appointed regent during the incapacity of his father; as the noble lord had himself furnished most of the precedents contained in the report on the table. Lord Porchester said, he must be apprised of it, if any such precedent as he referred to existed; but the noble lord well knew there was no such precedent to be found. He reprobated the expedient authorized by the third resolution, and said, that so far from being calculated, by means of a forgery of the Great Seal, to preserve the form of the constitution, and keep the royal authority whole and entire, it tended immediately to dissolve the very fabric of the constitution, to put an end to the three estates, and divide the royal authority into four parts; to give one to the Commons, another to the Lords, and a third to commissioners, to enable them altogether to deliver the remaining part to a regent. He denied the doctrine of a learned lord, that the infancy and incapacity of a king were similar cases, and maintained that there was an essential difference between an heir apparent and an heir presumptive; since, in the case of the former, the lineal succession went on; in the other collateral descent only. The first was more favoured by the law than the latter. He deprecated a difference of opinion with the other House, and said, in the very centenary of the Revolution, when the people were preparing to erect a pillar in honour of that memorable event, their lordships were called upon to pull up by the roots the constitution, which had been so gloriously established in 1688. He felt abashed, as a peer of Parliament, and a member of that House, on finding that the House of Commons had taken upon themselves to declare what was his right and his duty.

The Earl of *Carlisle* could not perceive that because the House of Commons had passed a resolution, that was any additional argument why their lordships should pass it also. The Commons indeed in this instance, had gone beyond their usual mode, for they had absolutely decided what was the right of their lordships, and had thus saved them the trouble of any inquiry. He thought the attempt to bring forward a decision of right which had never been claimed, and especially after their lordships had been told, from the highest possible authority, it never would, was reprehensible; it was particularly incumbent on their lordships to proceed with caution; for, in his opinion, it would be of infinitely more consequence to differ in our proceedings with Ireland, than alter a resolution of the House of Commons. If we acted justly, there could be no doubt but Ireland would follow our footsteps; but if, on the contrary, we deviated from the path of propriety, we must expect her to differ also. After exposing the futility of several of the precedents, he concluded by giving his hearty approbation of the amendment.

The Marquis of *Lansdowne* said, that the question involved in it points of the greatest importance; points that merited as serious and solemn a discussion as any that had ever engaged the attention of parliament. He owned, that it gave him particular concern that ministers had sent up the third resolution from the Commons, at the same time that they had sent up the second, and that they had coupled it with it; not that he did not fully approve of the third resolution, but merely because the circumstance of its having accompanied the second had afforded the ingenuity of those who wished to prevent the second resolution from receiving the sanction of that House, an opportunity of drawing arguments out of the third resolution, and applying them in objection to the second. Ministers, he saw, had made the precedent of the early part of the reign of Henry 6, the precedent for their proceed-

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ing. He thought they were right in so doing, and he wished they had gone farther, and followed up the precedent in all its forms. Had such a measure been adopted, a great deal of the argument which their lordships had that day heard, would have been cut up by the roots. In contradiction to the doctrines that had been asserted, concerning the two Houses of Parliament, that they were then in a convention, single and unconnected with any set of men as he stood, he had no hesitation in declaring, that the present was to all intents and purposes a parliament, regularly assembled. The King had assembled them; the King had the undoubted authority thus to assemble them, because the King was living. According to the law and the constitution, the throne was never vacant, and the King, in no age, in no condition, either as a minor or otherwise, was ever considered as incompetent to the exercise of the royal functions. That the King is never incompetent, never a minor, cannot think or act wrong, is a fundamental principle of the common law of England. The same principle prevails in regard to minors, who present to livings at a year old, and other matters. It is not to be presumed, that these are principles without a meaning. Our old principles of law are not only never found without a meaning, but, whenever called for, are found most commonly to have been suggested by the deepest wisdom; calculated not only to remedy past evils, when they recur, but to meet future exigencies. There cannot be a stronger illustration than the present time furnishes. He wished, therefore, that ministers had come down at once with such a commission as the third proposition pointed out, and that instead of having to discuss the propriety of putting the Great Seal to such a commission, they would have had, in the first instance, to have acted upon such a commission. It would have coincided much with his opinion, in opposition to a practice which had of late years obtained, and especially during the American war—the practice of coming to parliament in the first instance, and receiving its sanction beforehand for the measures of executive government; thus confounding the legislative with the executive, taking away the responsibility from ministers for their measures, and weakening the powers of inquiry and censure, which the constitution had wisely lodged in parliament. It was a practice which ought to be resisted; because, if suffered to prevail, it would confound the principle of the constitution, and take away one of its wisest and most beneficial provisions. — Noble lords had observed, that some risk would have been run, if the officer holding the Great Seal had, of his own authority, affixed it to a commission to hold the parliament in the King's name. Some risk undoubtedly would have been run, but great officers were created for the execution of great and important acts, and if they would run no risk, they had no business to accept great situations. He could not, however, see that great risk would have been run by any man holding the Great Seal, who, in the present critical situation of affairs, should have assembled the parliament, and brought together the collective wisdom of the nation, especially when it was considered what sort of a parliament the present was—not a parliament packed for the occasion, but a free parliament; a parliament which had been approved by the country, and had been long in existence previous to the unfortunate calamity, which every man lamented. The single circumstance of having called the parliament together in the way which he had mentioned, would have cut up much unnecessary debate; and sure he was, that the two Houses were fully equal to the acquitting of any minister, who had, in such an emergency, put the Great Seal to a commission, constituting them a parliament. — He spoke of the precedents contained in the report upon the table, in terms of respect, declaring that, in his opinion, it was impossible to have collected a line of precedents more applicable to the circumstances in which they at present stood. It had been asserted, that no precedent bore precisely on the case in point. Let those who rested on that assertion, be so good as to tell him, when, in a situation like the present, there had ever existed a prince of Wales of full age? Much had been said of right, and it had, on the one hand, been strenuously contended that the Prince of Wales had an inherent right to the Regency, on the other, that there was no right but in the two Houses of parliament. The marquis said, it is of the utmost consequence to every country, that it should, in no event, be left without a government, practically as well as legally, competent to every exigence. It needs no argument to prove that parliament is the natural government

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of this country. Nothing is wanting to make it as strictly legal as it is practically so, except a commission from the Crown. What is there to prevent the officers of the Crown from issuing such a commission under the present circumstances? Nothing can be alleged against the authority of such a commission, the fiction of it, or any other hard words, which may not be applied with equal justice against the principle above mentioned, which seems calculated expressly to meet the occasion.

There is a precedent in Henry the 6th's reign, when a commission was issued under the infant King's authority, as well as many other acts done, when the King was certainly as incapable of business as his present Majesty unfortunately now is. What is there so obvious, as to follow the same precedent; especially if it be confined to the purposes now required? Supposing those times bad, and the King's authority to have been then committed to serve factious and bad purposes, it can never render it inexpedient to commit it, when limited to answer the best purpose imaginable; namely, that of assembling the nation, and legalising the acts of a free parliament, chosen when nothing of this sort was in contemplation, and whose conduct has been singularly approved by the public. No man can say that such a precedent can ever do mischief, or seriously affirm, that there is the least possibility of its being impeached hereafter. For, in fact, to what does it reduce this mighty difficulty, stating the argument of the opposite side in its fullest force? Since the assembling a parliament, or passing an act to appoint a regent, with or without limitations, or approving a speaker, or any other form necessary to complete the legislature, cannot be deemed more than one measure coming under the same principle; it amounts only to this, that the Crown, in its legislative, not in its executive capacity, is in this single instance bereft of its power of free will, not against its consent, the power of dissenting having never been thought fit to be once exercised by the family now upon the throne; and every possible exercise of this power having been pronounced unconstitutional, even in idea, by the principal persons now in opposition, when lord Lansdown, then lord Shelburne, asserted some years since, that in case of a perfect reform of Parliament, every component part of the constitution should be equally free. On the contrary, the consent of the Crown is here presumed, under the direction of the two Houses, acting under a known and fundamental principle of law; for, however different the present proceeding may be in appearance, it must stand upon the same principle with that of Henry 6, since it makes no difference whether the Great Seal is put, and the King's authority used by the advice of a great or a little council. Those who do the act must stand the risk, which turns upon the justice of the act, and the nature of the exigence. If it should hereafter be found unjust or unnecessary, the advice of the parliament, notwithstanding the precedent of the American war, ought only to aggravate the crime, and should not be suffered to be pleaded, any more than certain pardons in the last century. But, it can never be said, that where a measure is just, necessary, and well intended, the advice of the two Houses can render it less authentic; but, on the contrary, it must add considerably to the public confidence.—The only advantage, therefore, which would attend the commission having been issued at the risk of the officers of the Crown, would have been, to have cut up a great deal of debate, which has served to confound the mode with the matter, and to distract the minds of men with a great deal of sophistry about Parliament, by no means applicable.

But, putting the legal ground out of the question, the constitution furnishes equally unquestionable ground to go upon, before it is necessary to have recourse to imaginary law.—The principles declared at the Revolution and insisted upon by judge Foster, and every good writer since, make the Crown itself not to be descendable property, like a pigstye or a laystall, but a descendable trust for millions and ages yet unborn; and contend, that, on this account, the hereditary succession cannot be considered as a right, but a mere political expedient, alterable by the two Houses; which, in cases of exigence, have always been considered and always termed the Legislature, to prevent what judge Foster states as the greatest of all possible evils, a disputed succession; all which reasoning obviously applies with double force to the case of a Regent. In fact, the people have rights, but kings and princes have none. The people stand in need of neither charters nor precedents to prove theirs, or professional men to interpret either. They are born with every

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man in every country, and exist in all countries alike, the despotic as well as free, though they may not be equally easy to be recovered in all. Kings have at times different interests, and great calamities have followed their differences; but the people can have but one interest throughout the world, which makes it of the utmost consequence to one people to know what another think and feel, and so far from lessening the weight of any government, it must have the contrary tendency; inasmuch as there can be no comparison between the force and effect of a government known to be approved by the unanimous and genuine voice of the people, through their representatives, and one founded on a stale principle of right, which can be maintained neither by precedent, law, nor reason, or upon a government half one and half the other. Let their lordships, therefore, consider the danger of the doctrine, that their existed in the Prince of Wales a right to exercise the royal authority during his Majesty's incapacity, and that the two Houses had no right to interfere, or to appoint whom they considered as the most proper person to be the regent. A variety of cases might be put, in which it might appear that the heir apparent might be an improper person to be entrusted with the regency. Suppose, for instance, the present Prince of Wales, instead of residing at Windsor, and setting an example of affection and tender regard for the Sovereign; instead of doing the honours of the country to foreigners, and raising the national character for polished manners, as report said he had done, throughout Europe, had been caballing away his time in the capital, intriguing with the army and navy, cultivating his interest with foreign powers, endeavouring to rouse the countries dependant on Great Britain, trying to render them subservient to his interests, and raising money to carry on his ambitious projects, and endeavouring by undue means like these, to enforce his claim, and maintain his right. Would not every man in the kingdom wish, if such had been the conduct of the Prince of Wales, that there was a power in the two Houses to step in, prevent such a character from being Regent, and appoint another? This proved incontestibly the propriety, he might say, the necessity, of deciding that the right existed in the two Houses of Parliament; and those who alleged the danger of touching upon the right, had themselves made it to be absolutely necessary, because they all uniformly asserted, that there did exist a right in the Prince of Wales, and yet every one of them had been afraid to argue it. At the same time, he did not mean to say, that the Prince of Wales ought not to be the person named as the Regent; far from it; it was so much the general sense of the whole nation that the Prince should, that if any member of either House was to maintain that he ought not, they well knew, the man who should appear to have been rash enough to have made such a declaration, when he went into the streets, would be torn into twenty pieces.

With regard to the intended limitations, whatever they should be, that made the decision of the question of right absolutely necessary; because it would, if avoided then, recur with double force, when the question of limitations came to be agitated. Besides, supposing that it should happen, when the question of limitations was debated, that it should be the general opinion that the Prince of Wales ought to be sole regent, without any restriction whatsoever; in that case, it surely would be most desirable to have the question of right decided first. Whence was the danger to arise which made either the discussion or the decision of that question mischievous? Could any noble lord who professed so much fear lest the discussion should take place in the House, state a single sympton of the danger, or of the disapprobation of the people, shown in any part of the country, on account of the very ample discussion which the question of right had undergone in the House of Commons? Was the disapprobation of the people occasioned by the decision in the House of Commons, to be found in the city of London? Was it to be found among the merchants of the city, who had advertised a meeting? Was it to be found in any city or great town throughout the country? A noble earl had talked of Ireland; had he found it in Ireland, or did he really think it would be found there? Had another noble lord found it in Scotland? Where, then, could be the danger of discussing it in that House? There could be none.—He should repeat his wishes, that it might be not only discussed but decided, that the eyes of all mankind might be opened to the important fact, which must result from the discussion and decision, that the people had most essential rights of their own, but that

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kings and princes had no rights whatever. He wished it might be decided for the benefit of foreign countries, that those who suffered oppression under governments the most despotic, might be taught their rights as men, and learn, that although their rights were not like the rights of Englishmen, secured by precedents and charters, yet that their rights must be acknowledged, as soon as ever they chose to assert them. Since he had sat in parliament he had never given a vote with more heartfelt conviction, than he should give his vote that night, in favour of the three resolutions, by which he hoped for ever to set at rest the claim of a right to a regency in any man, be that man whom he might.

He could not suppress his astonishment at hearing noble lords talk of the discussion and decision of that question as tending to weaken the regent's government; the very reverse must be its effect. What could strengthen a government more, than previously to its taking place, to have it declared, on the full authority of both Houses of Parliament, that the right of nominating a regent rested in the people, and that the Prince of Wales was chosen regent, not from any claim of right on his part to that high office, but with the unanimous voice of a nation of freemen? Seen in this its true light, it was equally the interest of the sovereign and of the Prince of Wales, that the decision of the question of right should be first made in behalf of the people, and the prince's right stand solely on the favour and fondness of the people, who chose him to rule over them. No government could be so strong, no accession to power so glorious, as that which originated from such a principle. Far beyond any advantage that could be drawn from a dark claim, unadmitted and unacknowledged, the prince would have the happiness of being appointed the head of a free people, by their own unanimous consent, and thence he might rest assured that they would support him in his situation with their lives and fortunes, against any possible attack.

It gave him pleasure to perceive that noble lords' opinions had a little come round, and that the idea of the constitutional importance of the royal negative delivered there, when bills were presented for the assent of the Crown, was not so unpopular as it had been, when he had endeavoured to maintain it some time since in that House. He had inquired of foreigners, what the electorate of Hanover did on the present occasion, and had received for answer, that neither in Hanover nor throughout all Germany, had any instance of the kind occurred.

Lord *Loughborough* maintained that the Prince of Wales had a right superior, beyond all comparison, to the claim of any other man to the regency, and that consequently the assertion, that he had no more right to the regency than any other individual subject, was monstrous and absurd beyond all sufferance. It gave him pleasure to perceive what had passed in that House and elsewhere, respecting opinions delivered by him on a former day; it could not be supposed that he could suffer the opportunity to escape without taking some notice of what he had alluded to. The noble marquis who spoke last, had delivered many sentiments in which he perfectly concurred; but, as was frequently the case in debate, where different men agreed upon the same premises, and yet drew very opposite conclusions from each other, so he differed in the application of the inferences which were drawn from the premises, as established by the noble marquis. He would state at what point it was, that the opinions of the noble marquis and his own diverged from each other. He said, that he grounded his doctrine respecting the right of hereditary succession to the throne, and, by analogy, the right of hereditary succession to the exercise of executive power, on Mr. Justice Foster's treatise on the principles of the constitution; and he was ready to admit, that a right to hereditary succession to the throne, was not an original vested right which belonged, in the first instance, to one of a family, and was descendible to the heirs, in like manner, as descendible property of an ordinary description, but that it was made hereditary for the general benefit of the community, and to guard against the mischief resulting from the pretensions of a variety of claimants on the one hand, and the ascertained fatal consequences of an elective crown on the other. With regard to the negative of the Crown in case of bills presented for the royal assent, he agreed also with the noble marquis, that the right of giving a negative in that case was an essential prerogative, which might be exercised as an insurmountable barrier between the Crown on the one part, and the two Houses of Parliament on the other; but then he must contend, that there could exist but

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one possible case, in which it might be maintained that a prince of the House of Brunswick could be induced to exercise it and that was, where the two Houses should have meditated and carried into all the effect which they could of themselves give it, an attack on the rights of the Crown so repugnant to the sense and feelings of the people at large, that the king's pronouncing his negative on such a bill, when tendered for the royal assent, should be considered as a popular exertion of his prerogative. The resolution of right was designedly drawn to cover a concealed purpose, different from that which the words of it professed to import. It was neither more nor less than a declaration on the part of the two Houses, that the regent was an elective office, and that the two Houses were the electors. He denied that the precedents were in point, since the parliament convened on the death of Henry 5, was a complete legislature, consisting of king, lords, and commons; whereas, now they were only the two Houses, and had not considered themselves as a parliament, the Speaker of the House of Commons having, though for his part he thought without occasion, doubted whether he had authority to issue a writ, not one of the standing orders having been enforced, and there not having been any votes printed, and various of the other forms which belonged to a regular session of parliament not having been complied with. He doubted whether parliamentary privilege existed at that moment. He did not mean privilege of peerage, because as their lordships well knew, that always existed, but privilege as a member of the other House. He asked the learned lord opposite whether they could punish any man for a contempt, declaring that he was not clear, if a man committed for a contempt were to sue out his writ of Habeas Corpus, and be brought before him as a judge, to be admitted to bail, whether he should or should not admit him, or remand him to custody? He believed, much as he respected their lordships, and unwilling as he should be to incur the displeasure of the House, he should rather be swayed by fear of the man's bringing his action for damages, than by the danger of offending their lordships and incurring the censure of the House, whatever it might be. He owned, that if the parliament had been opened by a commission under the Great Seal, one difficulty would have been solved, but not the difficulty on the present question, which must have recurred, whenever it came under discussion. He recommended agreeing with the amendment moved as the readiest way of lessening their embarrassment, observing, that the legislature, when complete, would certainly possess a sufficient share of power to carry into effect any parliamentary proceeding, which was necessary for its own existence; and that any bill of limitations could be brought in and passed after the regent should have been declared. He commented on the very slight grounds of difference of opinion amongst them; some had asserted that the Prince of Wales had an inherent right to the regency, others, that he possessed an irresistible claim, and others again, that he possessed neither, but was nevertheless the only fit person to be declared regent. Being therefore agreed in the main point, he contended that they ought to proceed to carry that into effect, and not to waste more time about the mode of doing that, which, it was on all hands agreed, ought to be done forthwith. Extremely slight indeed was the analogy which the precedent of the 32nd and 33rd of Henry 6, bore to the present time; and in support of this assertion, it was sufficient to adduce as an instance, the message which was sent to the sick king at Windsor, and his having been brought into that House, a prisoner and wounded, after the battle of St. Albans, where he was made captive by the duke of York.

The *Lord Chancellor* objected to the amendment, and combated the various arguments which had been advanced in support of it, and for the purpose of invalidating the second and third resolutions. The learned lord had questioned the existence of parliamentary privilege under the present circumstances of the two Houses assembling, and had stated his doubt in what manner he should be inclined to act, were a man, who had been committed for a breach of privilege, and had sued out his writ of Habeas Corpus, to be brought before him to be admitted to bail. Such questions were always disagreeable, and at times peculiarly unpleasant. In his mind, penalties and punishments of any kind, ought not to be annexed to mere error of judgment in magistrates; but he would venture to say, that if such an instance were to occur to the learned lord himself, as a judge, and he should think it his duty to refuse to

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admit the man to bail, and should be of opinion that it belonged to the public, that the man ought to remain in custody, the learned lord would do his duty, and remand him, without the least consideration either of the 500*l.* penalty, or the other penal provisions of the statute. As to the words of the amendment, he was glad they had not been of the learned lord's supplying, because he was sure they were not only irreconcileable to the learned lord's arguments, but such as conveyed no distinct or precise meaning whatever. Had those who proposed the amendment, been so good as to have explained what they meant, or accompanied the recital of the words of the amendment with any thing like a reason to show their propriety and application, the House might possibly have known how to have treated them; as they stood at present, they were mere insensible words, conveying no distinct import. He begged to know what the term "regent" meant? Where was he to find it defined? In what law book, or what statute? He had heard of Custodes Regni, of lieutenants for the king, of guardians and protectors, and of lords justices; but he knew not where to look for an explanation of the office and functions of a regent. To what end, then, would it be to address the Prince to take upon himself an office, the boundaries of which were by no means ascertained? But the amendment attempted something which probably was intended as a sort of definition of the term "regent", and of the nature of a regent's office, by stating, that what the Prince was to be prayed to take upon himself as sole Regent, was the administration of the executive government; there again, however, the expression was dark and equivocal. What was meant by the executive government? Did it mean the whole royal authority? Did it mean the power of legislation? Did it mean all the sovereign's functions, without restriction or limitation of any kind whatsoever? If it did, it ought to have said so in express words, and if it had, would any noble lord have contended, that such a broad degree of authority as amounted to the actual dethroning of his Majesty and wresting the sceptre out of his hand, ought to be voted by that House? He begged their lordships constantly to recollect, that in the contemplation of law, the political character of a king of Great Britain was always whole and entire, and he desired them at the same time to keep in mind, that the king's natural character was inseparable from his political character. It was, as sir Matthew Hale well observed, owing to this having been somewhat lost sight of, that so many mischiefs had ensued to this country. A king, even when a minor, was always and in all circumstances, considered as competent to exercise the royal authority, though, from the frailty of human nature, he might not be adequate to perform the duty of the executive government, whence it became necessary to provide for supplying that defect. He adverted to the precedent in the early part of the reign of Henry 6, and went through the particulars of the bishop of Durham, then Chancellor, going to the infant king, when a child of nine months old, in his cradle, and delivering up the Great Seal, which was immediately put into the hands of the master of the rolls, who went into another room and put the Great Seal to a commission, empowering the duke of Gloucester to call a parliament together, and to a variety of other commissions, it being the custom for all commissions to cease on the demise of the sovereign; so that if the step which had been taken by the great men of that day had not been adopted, there would not have been a magistrate in the kingdom who could have acted. He stated the proceedings of the Parliament assembled by virtue of the writs then issued, which had been sent, the writs for representatives of counties down to the sheriffs, and those for boroughs to the last returning officers. The very first bill passed by that parliament, was a Bill of Indemnity to those who had made use of the Great Seal as he had described. He reasoned upon this fact, and contended for the close analogy which the precedent bore to our present situation. He justified the taking the advice of the two Houses on the present occasion, as the best mode of proceeding; of old, when the number of privy counsellors was not so great as at present, and when it was not customary for his Majesty to have those persons members of his privy council, whom he never chose to meet, in a dilemma like the present, the measures to be adopted for the public safety might originate there; and others there were, who thought his Majesty's cabinet council the proper place; he differed in respect to both. He had heard, indeed, of some antiquaries, who were of

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opinion, that, upon some emergencies, a middle council between the two, composed of the judges and the king's ministers, ought to be formed; but the best council of all, in his judgment, was the grand council of the nation; and he begged their lordships to recollect, that ministers had risked something in suffering the two Houses to assemble on the expiration of the proclamation of prorogation, and without giving four days notice to any individual member of either House. It was now said, when the rights of the two Houses to supply the defect in the exercise of the royal authority were discussed and decided, and when they were called upon to concur with the House of Commons, in resolving the means which were to be resorted to for that purpose, that the two Houses were about to exercise the powers of executive government, and to do an act of legislation. Had ministers of themselves put the Great Seal to a commission for calling the two Houses together, and opened Parliament in that way, he was persuaded, that the charge of their being about to take upon themselves the executive government, would have been thundered in their ears ten times more loudly. He would tell that House what had been his opinion, when the unfortunate calamity was first known. It was to resort to the grand council of the nation, and to call upon them, in the face of the public, to act upon their own wisdom and authority.—With regard to the argument, that political necessity ought not to be the ground of a proceeding of an extraordinary nature, because it was not so well known as moral necessity, the very reverse was the fact, political necessity being much better known than any other species of necessity, having been repeatedly made the ground of the most important proceedings to be found in their history; but, it was said, if, upon the principle of political necessity, they could in any one instance assume the executive authority and legislate, they might push that unconstitutional practice much farther; so far indeed, that there was no knowing to what extent the doctrine might be carried. This he considered as idle and absurd, since the necessity which pressed went to one point only, and no farther; to the passing a bill to enable them to appoint a regent, and at the same time to define what was meant by such appointment, and under what specific limitations the regency was to be carried on. That the unanimous voice of the public pointed to one person only, and that this person was the Prince of Wales, proved, he should most cheerfully admit, a circumstance highly fortunate for the country. No man entertained a higher respect for the Prince than he did; he wished him as well as those who affected to be more mindful of his interests; but he would not, for that reason, argue that he possessed any inherent right to the regency, or that the Prince of Wales, as heir apparent, could possess any such right. The Prince had a better interest in the Crown than he could have in the regency; and it was all their duties to take care to preserve the crown safe on the head of the sovereign, in order that when, in the due course of nature, it should descend to the Prince of Wales, he should receive it solid and entire, as it had been worn by his Majesty previously to his present infirmity. The joint interests of the king upon the throne and the heir apparent who was to succeed to it, were what they were bound to watch over and preserve.—The Chancellor took notice of the precedent of Edward 2, who had fled towards Ireland, and was taken near Beaumaris, and when in custody as a prisoner, was sent to by Mortimer and the queen, who besought his majesty to let them have the Great Seal, to use it "ad conservandum pacem regni, et ad exhibendum justitiæ;" but when they got it, they had influence enough over the imprisoned king, to make him, on his own part, declare that he delivered it not merely "ad conservandum pacem regni, et ad exhibendum justitiæ," but "pro gratia;" and it was used "pro gratia, with a witness; for the queen and Mortimer put the Great Seal to writs, by the authority of which, they sold half the demesne lands of the crown.—The Chancellor spoke of the high qualities of the Prince of Wales in terms of great praise; but, he said, there might be heirs apparent, whose lives, might have afforded the two Houses sufficient reason for setting them aside from the regency; he maintained, therefore, that it was expedient that the two Houses should not abandon such a power, nor, under the circumstances of the case, avoid avowing it to be their right. He observed, that those noble lords who had talked of the right of the Prince of Wales to the regency, had not ventured to argue it, but had said, as all men were agreed, that the Prince of

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Wales, whether he had any right or not, ought to be the person appointed regent, the wisest way would be for that House to address him immediately, to take upon him, as sole regent, the administration of the executive government. He contended, that were such advice fit to be followed, even the two Houses would be under the necessity of legislating for themselves; and yet the very persons who gave such advice, upon arguing the third proposition, allowed, that if they attempted to legislate in a single instance of unavoidable and pressing exigency, the statute of the 13th of Charles 2 was directly in their teeth. He agreed with the marquis of Lansdowne as to the constitutional importance of the Crown's having a negative, when bills were tendered for the royal assent, declaring, that he not only concurred entirely with him on that point, and had thought himself indebted to him for the pains which he had taken, to point out the utility of such a power being lodged in the Crown; but was satisfied, in his own mind, that, so far from that being a power which no prince of the House of Brunswick was likely to exercise, a day would occur, sooner or later, in which the salvation of the constitution and of the country might depend on the royal exercise of that truly important prerogative. In his opinion, it was evident that the interests of the Prince of Wales would be best served, by acceding to the resolutions, and grounding a bill upon them, in which the degree of authority, and the nature of the functions to be vested in the person who was to stand between the Crown and the two Houses of Parliament, should be precisely marked and ascertained, as well as the extent of the limitations which the exigency of the case might require.

Lord *Rawdon* defended the words of his motion from the imputations cast on them by the Lord Chancellor, and justified them on the ground of propriety and appositeness.

The House divided on the question, that the words of the resolution, as originally moved, stand part of the question; Contents, 99; Not-contents, 66. The second resolution was then read, and the previous question being moved, it was determined in the negative; the question was then put upon the second resolution, and it was affirmed. The third resolution was next read, and being objected to, the question was put, when the question was affirmed.

A List of the division on the question of the Amendment to the Resolutions, moved by Lord Rawdon.

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The following Peers, who would have voted with the Minority, were absent, on account of illness: the duke of Gloucester, earl of Egremont, lords Sandys and Grantley.

Dec. 29. The resolutions being reported, Lord *Rawdon* said, that he did not mean to trouble the House, by adverting to any former arguments, as he had fully stated in the Committee what occurred in his mind in defence of his amendment, and had not heard any thing which appeared to him a sufficient answer; yet, as he understood that he could not have his motion entered on the journals, unless he moved it again, he would desire that the question might be put upon it, and to this he was urged merely from matter of form, and not a design impertinently to intrude. The words moved by way of amendment, to be added to the first resolution, were then read, and, upon the question put, negatived. The first and second resolutions were then severally read, and agreed to. On the question being put on the third resolution,

Lord *Hay* (earl of Kinnoul) said, that considering the third resolution as inimical to the constitution, and as tending to authorize ministers to set up a fourth estate, he could not resist the opportunity of delivering his sentiments on the subject. His Majesty's melancholy situation naturally presented itself first to the minds of all men, and respecting it there could be but one sentiment—universal regret, accompanied with the most ardent wishes, that our beloved sovereign, might be speedily restored to his loyal and affectionate subjects. He said he had deprecated the discussion of the question of right. It had been agitated without sufficient parliamentary ground; because a noble lord in that House, and a right hon. gentleman in another, had casually alluded to it in their speeches, and because rumour had breathed upon it abroad. Would their lordships substantiate a shadow? Would they make the idle buz of the streets the ground-work of their proceedings? He adverted to the precedents that had been relied on, because the circumstances of them were in some respect similar to those of the present crisis. He asked, whether their dissimilitude ought not to have as much weight as their similarity? Though it had been laid down by a high authority in that House, that there was no difference between an heir apparent, and an heir presumptive, he must, unlearned as he was, refuse his consent to the doctrine. An heir presumptive was that sort of heir, whose pretensions to the succession were liable to be of no avail, by the possibility of another heir arising; whereas an heir apparent had no competitor. An heir presumptive, if he was an ambitious man, might aspire to a right that eventually would not have devolved on him, had not his own unjust projects obtained it. An heir apparent was under no necessity to have recourse to such conduct to secure his right; because he knew, that in the common course of nature, it must come to him. One observation had fallen from the noble viscount near him, that struck him as an unanswerable argument against the resolution. What he alluded to was, that every commission for giving the royal assent to bills, must have the authority of the king's sign manual, and that, not merely as a matter of practice, which might be dispensed with at the option of the Crown, but by the Act passed in the 33d of Henry 8. He reprobated the intention of limiting the regent, and subjecting him to restrictions, contending that they might, with equal propriety,

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limit the sovereign authority of the Crown itself. The royal prerogatives were not given to the monarch himself, they were not granted to gratify his pride, and satiate his vanity, but for the public good, which would equally suffer by their being abridged, when in the hands of a regent, as in the hands of the sovereign himself.

Lord *Kinnaird* called upon ministers, as friends to the third proposition, for some explanation of its meaning. For his part, notwithstanding every attention that his mind was capable of, he was not able to guess, either at the object it proposed, or the mode of attaining it. He should earnestly entreat some noble lords, friends to this motion, and in habits of intimacy with the original mover of it in another place, to explain the purport and meaning of it, so that he might avoid trespassing on the patience of the House, by combating intentions, which, perhaps, had no existence, but in his misguided conception of the terms of the proposition. In anxious hope that the House might be favoured with such an explanation, he should sit down. His lordship then sat down, but no answer being given, he rose again and stated, that if the meaning which he should presume to put upon the words of the third resolution, were not such as was intended by the framers of it, their lordships would lay the blame on those, who, having it in their power, did not choose to indulge the House with any explanation whatsoever. He professed himself exceedingly at a loss how to treat this proposition. A learned lord had, the other night, in his emphatic manner, and with considerable asperity, arraigned the amendment proposed by his noble friend (lord Rawdon), as being couched in insensible terms. Might he be permitted, after so great an example, to take the liberty of declaring, that the proposition under consideration, was truly couched in insensible terms, and most probably was so done on purpose. The proposition sets out with a profession of the most laudable purpose, namely, to maintain the constitutional authority of the Crown: but how? by determining on means which, as had been declared by the former resolution, it was their duty to provide, whereby the royal assent might be given to such bill respecting the exercise of the royal powers and authorities. His lordship asked, if it was possible for obscurity to be more completely enveloped in itself? What! declare that they were to determine on the means which they had just before declared they were to provide, whereby the royal assent might be given? Had not their lordships, a moment before, come to a resolution respecting the unhappy capacity of the monarch? and, therefore, the royal assent was not to be obtained, but by the exercise of the royal authority, by some one or more persons. No, that was not the intention; for there were to be a bill or bills, respecting the exercise of the royal powers and authorities; and it had been supposed that the royal assent was to be given, under the sanction of the resolutions of the two Houses, by a commission under the Great Seal, to these bills. What! without the sign manual of the monarch? and that was declared impossible at present, directly in the face of the 33d of Henry 8. Were the two Houses, by their ordinance, to take upon them to order the Great Seal to be put to the commission, and the sign manual to be forged, how could they reconcile it to the meaning of the statute of Charles 2? In short, whatever way she steered, the vessel must be wrecked; in avoiding Scylla, she goes to pieces on Charybdis. It was correctly stated, and ably argued by a learned lord near him, that the measures which necessity creates, necessity limits; but, was it possible to justify the aiming so fatal a blow at the principles of the constitution? Was there no other mode of filling up the melancholy chasm which deprived them of energy, but by making the two Houses do that, which they can only do when in their perfect state of two houses of parliament, in parliament assembled, namely, legislate, and that, too, when they were so mutilated indeed, as to render it extremely doubtful whether they were inchoate: the least possible excess of their powers, in their present state, was to address and resolve; to legislate was the highest function they were capable of, and therefore it ought to be the most sacred. That their lordships and the other House had the power to adopt this mode of proceeding, he did not deny; but he doubted much if they had the right. If they did adopt it, he presumed, the very first bill that would be brought in, after the two Houses should be in parliament, would be a bill of indemnity; and highly necessary would it be for those who were under the orders of the two Houses, to usurp the exercise of the authorities of the Crown, under the pretence of maintaining them. It would be but fair and candid

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that their lordships should be informed in whom the exercise of these regal powers and authorities were to be vested. The resolution afforded no clue to guess. Every one had declared, that it could be in no person but the Prince of Wales. He verily believed, that, from one end of his Majesty's dominions to the other, there was not a dissenting voice, respecting the regency of a prince, on whose qualities it would be arrogance in him to descant; but, nevertheless, he could not help saying, that the awful example of filial affection and unremitting attention which they had beheld, could not fail of impressing the minds of all men with the consolatory presage of the exercise of such virtues towards a sympathizing nation. Their lordships had many precedents laid on their table, and much stress had been placed on them: but, why were there not any produced to sanctify this proceeding? Because the only precedents that bore any analogy to such a proceeding, made directly against it. Their lordships were aware, that he alluded to the proceeding which took place in 1641, when the judges were referred to, and returned this answer: That such a commission to give the royal assent to bills would be good, if backed by an act of parliament, and the resolution of the Commons. The ancient and constant course, in all times, has been, to have a locum tenens in the King's absence, a parliament then sitting, and not limited to any particular matter. The plan proposed by this resolution, as he conceived it, was inefficacious, clumsy, circuitous, and unintelligible. There had been no pretence set up in justification of this measure being preferred to that of address, except the impropriety of vesting his royal highness with the exercise of the royal authority, before the terms on which he was to exercise it were prescribed. If any limitations or restrictions were thought necessary, was there any of their lordships who could believe it possible that such a bill would not receive the assent of him who had the power of exercising the authority? He entreated their lordships not to give a deadly blow to the substance, by sacrificing at the shrine of legal fiction, when they might find so safe and sure a guide in the broad analogies of the constitution. Their lordships had declined the suspension of regal executive government; and why would they not imitate the wisdom of their ancestors in the next step, by completing the three estates of the legislature, by an address to the only person within the realm, to whom they all looked up to take upon himself the exercise of the royal authority, as a trust for the benefit of the people, in the name and in the behalf of his Majesty? By following such an example, their lordships could never be disgraced; as the character of those who completed that glorious event, must ever be entitled to the admiration of every Briton.

The Earl of *Suffolk* could not avoid reprobating the resolution, on account of its apparent tendency to subvert the constitution, where there was no occasion to have recourse to such a project. While they were wasting time in debating abstract questions of theory, what, he asked, must be the situation of the Prince of Wales? Their discussion of the question of right had been altogether idle and unnecessary, as no right had been set up in opposition to the right of the two Houses; and they had heard from the highest authority, and in a manner that could not but have impressed them all with the most profound reverence and respect, that no claim of right would be brought forward by his royal highness. He reprobated the assertion, that any other person could have an equal right to the Regency with the heir apparent, as a doctrine in the highest degree unconstitutional. He spoke of the idea of limiting and restraining the Regent, and investing him with only a portion of the royal authority, as an idea equally repugnant to the known law of the land, and the principles of the constitution. But even allowing, for the sake of argument, that some limitation would be proper, where were the energies of the constitution, if they could not pass such a bill as the occasion might require, after the Regent was declared? Upon this occasion, he should beg leave to submit to the attention of their lordships, an observation from De Lolme, an acknowledged admirer of the equilibrium of the British constitution, who, in confirmation of his argument against portioning out the regal authority, says; "and, I shall take this opportunity to make the reader observe, in general, how the different parts of the English government mutually assist and support each other. It is because the whole executive authority in the state is vested in the Crown, that the people may without danger delegate the care of their liberty to representatives; it is because they share in the government only through

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these representatives, that they are enabled to possess the great advantage arising from framing and proposing laws; but, for this purpose, it is again absolutely necessary that the Crown, that is to say, a veto of extraordinary power, should exist in the state." The virtues of the Prince of Wales afforded the best security for his good government of the country during his regency; and more than painful would prove the consequences of depriving him of the free exercise of his will in the choice of his servants, and forcing him to employ those ministers, whose unceremonious treatment of him, must have rendered them disagreeable to his royal highness. So violent a procedure would at once destroy all confidence in their measures, and thus render a vigorous government impossible. The idea of subjecting the Prince to limitations, reminded him of what had been said, on a former occasion, when a bill for restraining the prerogative and reforming the civil list, had been in agitation. The words then were: "If you proceed to take away so much of the just rights of the Crown, you will render it unfit for a gentleman to wear." With equal truth might he remark, upon the present occasion, that if they fettered the Regency by unconstitutional restrictions, they would render it an object not fit for the acceptance of a gentleman.

The Duke of *Norfolk* felt it impossible to avoid complaining at the silence of ministers, respecting the meaning of the third resolution; and declared, that if he had no other reason for giving his negative to it, that alone would be a sufficient ground for him to oppose it. Ministers had treated that House with great indecency. Unfortunately situated as they all were, ministers had only that House to consult as the grand council of the nation; they could not, it was confessed on all hands, consult his Majesty, as had formerly been the case, and therefore, in a moment of emergency like the present, they ought to have stated to the House the whole of the plan they meant to pursue, that their lordships might be enabled to discharge their duty by furnishing such advice to ministers as the exigency of the case might require. His Majesty's ministers had one and all declared, that, in their opinion, only one person ought to be entrusted with the royal authority, and with the reins of executive government, and that person was the heir apparent. This being the case, he desired to know if ministers had consulted the Prince of Wales in respect to the steps already taken on the subject? If they had not, in his opinion, they had treated him with very little respect or decorum, and had acted in a manner inconsistent with themselves.

The Duke of *Richmond* said, that, with regard to the third resolution, he had not the smallest difficulty in telling the noble lords what he conceived to be its meaning. He conceived the plan to be pursued, under the authority of the third resolution, to be simply this: to issue a commission under the Great Seal, empowering commissioners to open the session of parliament; then to pass a bill, enacting the nature of the office to be exercised by the regent, and providing the powers necessary for the due and effectual exertion of his authority; and when such bill had gone through its several stages, and was ready for the royal assent, to issue another commission, appointing and empowering a commissioner, in his Majesty's name, to give the royal assent to such bill. With regard to the charge made against ministers, of having treated that House with indecency, by not having stated to them the plan they intended to pursue, he really was at a loss to guess on what part of their conduct the noble duke grounded his censure; every step that they had taken, having been public, and having met with the concurrence of their lordships. As to the other charge, that of not treating the Prince of Wales with due respect and decorum, he did assure the noble duke that he, as one of his Majesty's servants, felt the force of the remark deeply, and should be as ready as any man to acknowledge, that if ministers did not communicate both to that House and to his Royal Highness, every measure they meant to take respecting the Regency, they would act with a very unbecoming degree of disrespect; but, the noble duke would be so good as to recollect, that they had hitherto been employed in ascertaining their own powers, and inquiring what they had a right to do, and what they had not. The vote of that day, he trusted, would decide the point, and then the next thing would be, to proceed, in a parliamentary way, to the carrying their object into effect.

Lord *Porchester* said, it was evident, from what had fallen from the noble duke, that the House had been called upon to vote what, after all, they had it not in their power to perform. The two Houses might pass a bill, undoubtedly, through

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the several parliamentary stages, but nothing could be more clear than that they could not give it the royal assent, because that important act must depend on the will of another, on the will of the learned lord on the woolsack. Before, therefore, they did so absurd a thing as to put themselves into a situation that might possibly only prove their imbecility, and load them with disgrace, they ought to be well assured, that the learned lord would obey the directions of the two Houses, let them be what they might, or go to what extent they would; for, to that degree of obedience, was it necessary for the learned lord to pledge himself, before their lordships consented to the third resolution. He called, therefore, on the learned lord to stand up and give the House satisfaction, in a point of so much importance, before they proceeded any farther. He did not suppose he should receive any answer; but the question was a fair one, and the House had an undoubted right to expect a satisfactory reply. He knew the learned lord had too manly a mind to consent to perform an act which he, in his conscience, thought wrong; and, therefore it was the more necessary previously to know his sentiments.

Viscount *Stormont* said, that he had felt the necessity of having some answer to the question put to ministers by the noble lord near him, relative to their intended proceeding under the authority of the third resolution, but he was aware of their difficulty; he knew they must answer, "We cannot inform you what step we shall yet take, because our gracious instructors, the House of Commons, have not yet told us what we are next to do." This was one of the various inconveniences resulting from the circumstance of the House of Commons having taken the lead in the whole proceeding, and their lordships having the humble duty of treading over the same ground after them. This circumstance had been said to have been purely accidental, and he hoped it was so. He declared he did not regret the degree of power to which the House of Commons had, of late years, arrived; because he well knew that it was, on that account, the best security for our liberties, the truest bulwark of the constitution! He did regret, however, that their lordships lost so much of their authority, as not to have taken the lead in a proceeding which, of all others, came most properly within their province. A noble lord had well observed, that the third resolution, after they had voted it, could not be carried into effect by any powers possessed by the two Houses, but must depend on the will of another person. Lord Stormont put the case, that the two Houses should pass a bill for limiting the regency, and when they had done so, should call upon the person holding the Great Seal to annex it to a commission, and give the royal assent to the bill, and that person should stand upon his right, and refuse to forge the Great Seal to such a commission. In that case, would the two Houses force the holder of the Great Seal to obey? would they pass a parliamentary censure upon him, or how would they proceed? It seemed needless to dwell upon the embarrassment which such a circumstance would occasion, or contend that it was by no means improbable to occur. He next took notice of what had fallen from a learned lord on Friday, on the subject of state necessity, declaring that he thought he had heard the learned lord express a doubt, whether state necessity had not been the plea on which ship money had been formerly levied. He referred to lord Clarendon as a person whose authority might safely be relied on, in regard to the whole of that transaction, his lordship having been one of the managers of the impeachment sent up to that House from the House of Commons, against the judge who gave the infamous decision on that question. He stated the particulars, mentioning that the King desired to know, "If he had any right?" When the answer was, "That his Majesty had a right, when the state was in danger, of which he was the sole judge." This was, he maintained, exactly similar with the present proceeding. The third resolution, he confessed, pointed only at one bill, but it nevertheless involved in it all the considerations of executive government, and proceeded on the plea of state necessity to desire to be entrusted with the royal authority to an uncertain extent, limited by nothing but the discretion of ministers themselves. He suggested the difference between physical necessity and state necessity, and argued that the latter should always be governed by the former; in the present instance, there was, he said, a sufficient degree of physical necessity for the two Houses to do something, but not to go the extent assumed in the third resolution on the plan of state necessity. He said, that this was the last time he

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should trouble the House on the subject of the resolutions; being perfectly content to leave the argument where it stood, having seen those who had affected to stand up for the royal authority, assassinate that authority, and stab the sovereign power with the King's own hand, in a manner which could reflect no honour on themselves. He was content, the rather from a consciousness of having been left in a minority, the largest in point of number, and the most respectable for the talents of many who had made a part of it, of any minority ever known in the history of parliament.

Lord *King* denied that ministers had stabbed the royal authority with the King's own hand. It had been said that the present was not a parliament regularly called together; an assertion which he reprobated; the present parliament having been as regularly called together as any that ever sat.

The question was put and agreed to, and a conference desired to acquaint the Commons therewith.

Protest against the Resolutions relative to the King's Illness.] Upon the above occasion, the following Protest was entered on the Journals:

"Dissentient,

1st. "Because we adhere to the ancient principle recognized and declared by the Act of the 13th of Charles 2, that no act or ordinance, with the force and virtue of a law, can be made by either or both Houses of Parliament, without the King's assent, a principle standing as a bulwark to the people against the two Houses, as the two Houses are their security against the Crown.

2dly. "Because this principle is tacitly admitted by the third resolution, while it overthrows the practice by a simulate appearance of the royal assent under a commission to pass bills, a commission which would be inconsistent with the provisions of an Act of 33d Henry 8, requiring that every commission shall be signed by his Majesty's hand. In our present unhappy situation, that essential requisite being unattainable, we cannot condescend to give a sanction to a counterfeit representation of the royal signature and we dare not assume a power to dispense with the law which makes that signature essential to the validity of a commission to pass bills.

3dly. "Because we conceive that the unquestionable rights of the people, so fallaciously represented as being upheld by these resolutions, are violently infringed by an unnecessary assumption on the part of the two Houses of powers beyond those which the nation have assigned them. Invariable practice, in all good times, and positive laws established by complete parliaments, truly and constitutionally representing the nation, have defined these powers. And we cannot but regard with the utmost apprehension any proposal to overstep those boundaries, when the consequence of such usurpation is so fatally marked in the history of our country.

4thly. "Because it was confessed in the debate, that the powers of this commission were not to be confined solely to the act of appointing a regent; to what other purposes they may extend were not explained. State necessity, the avowed ground of the measure, may serve as the pretext to any diminution of the just prerogatives of the Crown, or of the liberties of the people, that best suits the designs of ambition. Fatal experience had shown to our ancestors the boundless mischiefs of powers thus usurped under plausible appearances; and it is particularly the duty of the House of Peers to check the renewal of a practice to assume the name, without the substance, of the royal authority, by which this House was once annihilated, the monarchy overthrown, and the liberties of the people subdued.

5thly. "Because these dangerous and alarming consequences of the measure adopted would have been obviated by the amendment rejected. It proposed to substitute a measure conformable to the practice of our ancestors at the glorious æra of the Revolution. They seized not upon public necessity as a convenience for the usurpation of new powers, but proceeded in a plain and explicit form to the revival of the royal authority with full efficacy, before they entered upon the exercise of their legislative functions. Pursuing a similar course, the amendment proposed the immediate nomination of the natural representative of the King, the heir apparent of the crown, to whom alone it was universally admitted the eyes and hearts of all men, during the present unhappy conjuncture, were turned; that with a perfect and efficient legislature, such future provisions might be enacted, as the preservation of the full and undiminished authority of the Crown and the liberties of the people may require.—(*Signed*)

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Frederick, Henry, Northumberland, Suffolk and Berks, Maynard, Rawdon, Audley, Clifton, Chedworth, Wentw. Fitzwilliam, Walpole, Derby, Scarborough, Portchester, Southampton, Hertford, Plymouth, Ponsonby, Spencer, Norfolk, E. M., Breadalbane, Malmesbury, Rodney, Selkirk, Portland, Hereford, Cholmondeley, Foley, Boyle, Lovel and Holland, Abergavenny, Teynham, Hampden, Bedford, Cadogan, Carlisle, Cassillis, Cardiff, Hay, Kinnaird, Loughborough, Pelham, Devonshire, Chr. Bristol, Craven, Huntingdon, Lothian, Townshend."

Death of Mr. Speaker Cornwall—Mr. W. W. Grenville chosen Speaker.] Dec. 30. The clerk at the table acquainted the House, that the Speaker was indisposed with a cold and fever, which confined him to his chamber; and that he had directed him to express to the House his concern, that he was prevented from attending their service this day, but that he hoped in a day or two to be able to return to his duty. Whereupon it was moved, that the House should adjourn to the 1st of January. And thereupon the Clerk (to whom those who spoke addressed themselves, according to former practice in the absence of the Speaker) by direction of the House, put the question, which was agreed to.

January 2, 1789. The Clerk at the table acquainted the House, that he was extremely sorry to inform them, that Mr. Speaker died that morning. After which, and before any member spoke, the mace was brought into the House by the serjeant, and laid under the table. Mr. Rose said, that under the very unhappy embarrassment in which they were placed by this lamentable event, he did not know what better expedient to propose than an adjournment until Monday. On this there was a general cry of "adjourn, adjourn." Mr. Vyner said, he did not mean to dispute the motion; but as a doubt was entertained, whether the clerk at the table could adjourn the House more than from day to day, and as he understood there were two or three precedents on the Journals, he wished, for the satisfaction of gentlemen, that one or two of them might be read. The clerk then read from the Journals, a precedent of the 15th of December 1783, where he was directed by Mr. Speaker to acquaint the members, that having heard of the death of a near relation, he requested, if it could be done consistently with the public business, that they would adjourn for a few days. This happened on the Monday, and they adjourned to the Wednesday following. This precedent being satisfactory to the House, the clerk put the question of adjournment till Monday the 5th, which was agreed to.

Jan. 5. Mr. Hatsell, the clerk, having called for the mace, which was brought in by the Serjeant, and placed under the table,

The Earl of *Euston* rose, and premising that the unfortunate event of the death of their late worthy Speaker was too well known to require his dwelling upon the circumstance, added that he must beg leave to remind the House, that the occasion called for the election of a fit and proper person to fill the vacant chair. The right hon. gentleman, whom he should take the liberty of proposing, was a man of such splendid abilities, experienced assiduity, and perfect knowledge of parliamentary privilege, resulting from the closest attention to business, ever since he had enjoyed a seat within the House, as pointed him out to be the proper successor of the late Speaker. Mr. Grenville was the gentleman whom he meant to recommend, and when the House considered his excellent understanding, and unremitting industry, he trusted that their minds would go with his in thinking, that these qualifications rendered Mr. Grenville an object worthy of their choice. Much, he said, might be urged on the score of the right hon. gentleman's private character; that stamp of merit, added to his parliamentary knowledge, and strength of mind, and of constitution, rendered him in every point of view so unexceptionable, that it was unnecessary for him to take up more of the time of the House. He would therefore conclude with moving "that the right hon. William Wyndham Grenville do take the chair of this House as Speaker."

Mr. *William Pulteney* seconded the motion. He observed, that the whole House had witnessed with pleasure the right hon. gentleman's great attention, extreme accuracy, and clearness of reasoning. The right hon. gentleman had ever conducted himself with that mode-

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ration and candour, which pointed him out as a fit successor to their late Speaker. The right Hon. gentleman possessed an hereditary claim to the favour of the House, as the guardian of its privileges, which he had fortified and established by his judicious alteration of his father's bill, a bill that, in his opinion, had gone farther towards securing the first and the most invaluable privileges of that House, than any measure that had ever taken place in parliament. He mentioned the customary usage of a previous application from the Crown, when the chair became vacant, but as under the melancholy circumstances of the times, no such form could take place, and as it was absolutely necessary that the chair should be filled in order to enable the House to proceed with the very delicate business before them, which demanded dispatch, the choice of a Speaker immediately was so indispensably requisite, that he supposed no doubt could remain on that question.

Mr. *Welbore Ellis* expressed his concern to find, that the loss of a regular opening of the session, and of the executive government, had been aggravated by the unfortunate loss of their Speaker. It was a maxim laid down by some authors of eminence, "that any government was better than no government at all;" but although he had formerly embraced that opinion, he must now oppose it, because the maxim had grown into such a degree of prevalence, that instead of taking the short and ready path of restoring the third estate, and giving the constitution its due energy and vigour, much time had been lost in parliamentary fancy. It was true, that under the present circumstances, the usual forms of an election of a Speaker could not be observed; and therefore the House was justified in proceeding to an immediate choice. For his own part, he should not hesitate to pay every tribute of applause to the right hon. gentleman who had been proposed, and he should, in the fullest manner admit, that he was a fair object of their choice, were it not that he had intended to recommend an hon. baronet near him, to whose abilities and eloquence the whole House could bear testimony. He meant no disrespect, therefore to the right hon. gentleman, when he presumed to mention sir Gilbert Elliot as a fit person to fill the vacant chair. He had enjoyed the pleasure of a very early acquaintance with the hon. baronet, and knew him from his boyish days, and therefore his partiality and predilection were pardonable. But, it rested not on his private opinion, they had all been witnesses of the hon. baronet's zeal for the constitution, they had all been witnesses of his powerful eloquence, and superior ability; yet, as the hon. baronet possessed the usual companion of great merit, great modesty, in compassion to his feelings he would forbear to say more, and conclude with moving, by way of amendment, That sir Gilbert Elliot's name be inserted in the question.

Mr. *Frederick Montagu* declared, that he entertained every respect for the right hon. gentleman named on the other side of the House, in common with the noble lord who had proposed him, and the hon. gentleman who had seconded him; he must, however, be allowed to second the motion made by the right hon. gentleman near him. They all knew how necessary a knowledge of legal forms were, and must admit, that the hon. baronet just named, possessed that thorough acquaintance with the laws of his country, which, had he continued in the courts below, could not have failed to have rendered him one of the chief ornaments of his profession. Fortunately for that House, the hon. baronet had brought that acuteness of mind which he so eminently possessed, among them, where it could not fail to be exercised to the advantage of the public, and to his own credit. He could expatiate much more at large on the qualifications of the hon baronet, but when he considered, that what must contribute to their satisfaction, would give pain to the hon. baronet, he would restrain his inclination, and only second the motion of his right hon. friend.

Mr. *Grenville* declared, that whatever might be the decision of the House, he should always consider it as an honour, to have been thought fit to fill the chair of that House, by persons of such high character, as the noble lord and the hon. gentleman, who had stood forward in his support. He felt the great importance of the situation to which he had been proposed, and was so conscious of the increase of that importance, in consequence of the very delicate and momentous business in which the House was engaged, that he trembled for his inexperience, and his inability to discharge the duties of the office. These considerations, he trusted, would induce the House to turn their eyes to the hon. baronet over the way, or to

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some gentleman more worthy to fill the chair, and more capable of sustaining the burthen of official duty, than himself.

Sir *Gilbert Elliot* could not avoid expressing his sincerest gratitude and respect for the persons who had done him the honour to name him, and for whom he was proud to confess his veneration and regard, even if they had not shown that fresh instance of their partiality and kindness. The right hon. gentleman over the way could not feel more deeply than he did, the importance of the office, to which his friends had proposed that he should be elevated. He well knew that it was the duty of the person who should fill the chair, not merely to preserve decency and decorum; not merely to look to the order of their proceedings, but to assert the privileges of the House, both there and elsewhere; because those privileges were essential to the existence of parliament, and intimately connected with the liberties and happiness of those whom they represented. He felt his own inadequacy too sensibly, when he considered the high and important duties of the office. Surrounded as he was by men of great legal knowledge and experience, he could not think of taking that chair, to which he so well knew his own inadequacy to do justice.

The question being put on lord Euston's motion, the House divided. The tellers were appointed by the clerk, viz.: Yeas, Mr. Robert Smith, 215; Noes, lord Maitland, 144.

So it was resolved in the affirmative. Whereupon Mr. Grenville was conducted to the chair by the earl of Euston, and Mr. Pulteney; where standing on the upper step of the chair, he again addressed himself to the House, submitting himself to their commands, hoping for their indulgence to pardon all his defects; and expressing himself truly sensible of the high honour the House had been pleased to confer upon him. And then he sat down in the chair; and the mace, which before lay under the table, was laid, by the serjeant, upon the table.

Mr. Pitt then gave notice, that he would to-morrow open to the House the Restrictions which he should propose as necessary to be annexed to the Regency.*

Further Proceedings in the House of Commons on the King's Illness.] Jan 6. On the motion that the order of the day be now read,

Mr. *Loveden* rose, and begged leave to remind the House that he had ever declared his sentiments, such as they were, with truth and sincerity, without a wish to court the countenance of party, or to solicit the favour of power; that in that House, he considered himself as a free agent, and was determined to continue so, his maxim being, "Nullius addictus jurare in verba magistri." He was neither biassed by affection for one set of men, nor misled by prejudices against another, and acted upon what he considered to be a better principle, and a more becoming motive, than either self-interest or ambition, an honest zeal for the promotion of the public welfare. Before the House proceeded to settle the terms of the regency, he conceived that they ought to know exactly what the exigency of the case really was, the providing for which had become the object of their deliberations. No limitations of any kind could be suitably adopted, without having a reference to the cause which created the necessity for their introduction; and therefore, before they went a step farther, in his humble judgment, they ought to know precisely what was the present state of his Majesty's health, what the degree of alteration which it had undergone, since his physicians were last examined, and whether the probability of his recovery was increased, or lessened, in their opinion. Reports had gone abroad of a very contradictory kind, and the authority of the different physicians who attended his Majesty, had been made use of to give sanction to those reports. He had that day seen a letter from one of the physicians in question, in which the writer fully contradicted the report, in which his name had been made use of. Rumours were also circulated, that the opinions of the physicians were not faithfully communicated to the public. That the House might not act upon rumour, he thought it highly necessary, that the foundation of the reports respecting his Majesty's indisposition should be ascertained, and that the House should have the whole truth

* During the interval of the Speaker's illness, Mr. Pitt communicated to the Prince of Wales the plan he had formed for the constitution of a Regency. This Letter, together with the observations of his Royal Highness thereupon, are as follow:

COPY of MR. PITT's LETTER to his royal highness the Prince of Wales, left at

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completely before them. With that view it was that he had risen, and although he did not wish to press any unnecessary motion on the House, yet, as the limitations would necessarily be governed by the greater or less proportion of the probability of his Majesty's speedy recovery, that important fact ought to be ascertained; because, if his Majesty's present incapacity was but a mere temporary suspension of the exercise of the royal authority, limitations to a particular extent

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Carlton-house, on Tuesday night, the 30th of December.

"Sir; The proceedings in parliament being now brought to a point, which will render it necessary to propose to the House of Commons, the particular measures to be taken for supplying the defect of the personal exercise of the royal authority during the present interval, and your Royal Highness having some time since signified your pleasure, that any communication on this subject should be in writing, I take the liberty of respectfully entreating your Royal Highness's permission to submit to your consideration the outlines of the plan which his Majesty's confidential servants humbly conceive (according to the best judgment which they are able to form) to be proper to be proposed in the present circumstances.

"It is their humble opinion, that your Royal Highness should be empowered to exercise the royal authority in the name and on the behalf of his Majesty, during his Majesty's illness, and to do all acts which might legally be done by his Majesty; with provisions, nevertheless, that the care of his Majesty's royal person, and the management of his Majesty's household, and the direction and appointment of the officers and servants therein, should be in the Queen, under such regulations as may be thought necessary.—That the power to be exercised by your royal highness should not extend to the granting the real or personal property of the King, (except as far as relates to the renewal of leases) to the granting any office in reversion, or to the granting, for any other term than during his Majesty's pleasure, any pension, or any office whatever, except such as must by law be granted for life, or during good behaviour; nor to the granting any rank or dignity of the peerage of this realm to any person except his Majesty's issue, who shall have attained the age of twenty-one years.

"These are the chief points which have occurred to his Majesty's servants. I beg leave to add, that their ideas are formed on the supposition that his Majesty's illness is only temporary, and may be of no long duration. It may be difficult to fix beforehand, the precise period for which these provisions ought to last; but if unfortunately his Majesty's recovery should be protracted to a more distant period than there is reason at present to imagine, it will be open hereafter to the wisdom of parliament, to re-consider these provisions whenever the circumstances appear to call for it.

"If your Royal Highness should be pleased to require any farther explanation on the subject, and should condescend to signify your orders, that I should have the honour of attending your Royal Highness for that purpose, or to intimate any other mode in which your Royal Highness may wish to receive such explanation, I shall respectfully wait your Royal Highness's commands. I have the honour to be, with the utmost deference and submission, Sir, your Royal Highness's most dutiful and devoted servant,

"*Downing Street,* W. PITT.
"*Tuesday Night, Dec.* 30, 1788."

COPY of the PAPER delivered by the Prince of Wales to the Lord Chancellor, in reply to the Letter sent to his Royal Highness from Mr. Pitt.

"The Prince of Wales learns from Mr. Pitt's letter, that the proceedings in parliament are now in a train which enables Mr. Pitt, according to the intimation in his former letter, to communicate to the Prince the outlines of the plan which his Majesty's confidential servants conceive to be proper to be proposed in the present circumstances.

"Concerning the steps already taken by Mr. Pitt, the Prince is silent.—Nothing done by the two Houses of Parliament can be a proper subject of his animadversion; but when previously to any discussion in parliament, the outlines of a scheme of government are sent for his consideration, in which it is proposed that he shall be personally and principally concerned, and by which the royal authority, and the public welfare may be deeply affected, the Prince would be unjustifiable, were he to withhold an explicit declaration of his sentiments. His silence might be construed into a previous approbation of a plan, the accomplishment of which every motive of duty to his father and sovereign, as well as of regard for the public interest, obliges him to consider as injurious to both.

"In the state of deep distress, in which the Prince, and the whole royal family were involved, by the heavy calamity which has fallen upon the King, and at a moment when government, deprived of its chief energy and support, seemed peculiarly to need the cordial and united aid of all descriptions of good subjects, it was not expected by the Prince, that a plan should be offered to his consideration, by which government was to be rendered difficult, if not impracticable, in the hands of any person intended to represent the King's authority—much less in the hands of his eldest son—the heir apparent of his kingdoms, and the person most bound to the mainte-

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only might be proper; but it would have a very different effect on men's minds, if the suspension was to last for any considerable length of time. He concluded with moving "That a considerable space of time having elapsed since the examination of the physicians, with respect to his Majesty's health, it is necessary to know whether any alteration or amendment has taken place, and that therefore the physicians be called upon to inform this House if the present symptoms are such as give

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nance of his Majesty's just prerogatives and authority, as well as most interested in the happiness, the prosperity, and the glory of the people.

"The Prince forbears to remark on the several parts of the sketch of the plan laid before him; he apprehends it must have been formed with sufficient deliberation, to preclude the probability of any argument of his producing an alteration of sentiment in the projectors of it. But he trusts with confidence to the wisdom and justice of parliament, when the whole of the subject, and the circumstances connected with it, shall come under their deliberation.

"He observes, therefore, only generally on the heads communicated by Mr. Pitt; and it is with deep regret the Prince makes the observation, that he sees, in the contents of that paper, a project for producing weakness, disorder, and insecurity in every branch of the administration of affairs.—A project for dividing the royal family from each other—for separating the court from the state, and therefore by disjoining government from its natural and accustomed support.—A scheme for disconnecting the authority to command service, from the power of animating it by reward; and for allotting to the Prince all the invidious duties of government, without the means of softening them to the public by any one act of grace, favour, or benignity.

"The Prince's feelings, on contemplating this plan, are also rendered still more painful to him, by observing that it is not founded on any general principle, but is calculated to infuse jealousies and suspicion (wholly groundless, he trusts) in that quarter, whose confidence it will ever be the first pride of his life to merit and obtain.

"With regard to the motive and object of the limitations and restrictions proposed, the Prince can have but little to observe. No light or information is offered him by his Majesty's ministers on these points. They have informed him what the powers are which they mean to refuse him, not why they are withheld.

"The Prince, however, holding as he does, that it is an undoubted and fundamental principle of this constitution, that the powers and prerogatives of the Crown are vested there, as a trust for the benefit of the people; and that they are sacred only as they are necessary to the preservation of that poise and balance of the constitution, which experience has proved to be the true security of the liberty of the subject—must be allowed to observe, that the plea of public utility ought to be strong, manifest, and urgent, which calls for the extinction or suspension of any one of those essential rights in the supreme power, or its representative; or which can justify the Prince in consenting, that, in his person, an experiment shall be made to ascertain with how small a portion of the kingly power the executive government of this country may be carried on.

"The Prince has only to add, that if security for his Majesty's repossessing his rightful government, whenever it shall please Providence, in bounty to the country, to remove the calamity with which he is afflicted, be any part of the object of this plan, the Prince has only to be convinced that any measure is necessary, or even conducive, to that end, to be the first to urge it as the preliminary and paramount consideration of any settlement in which he would consent to share.

"If attention to what it is presumed might be his Majesty's feelings and wishes on the happy day of his recovery, be the object, it is with the truest sincerity the Prince expresses his firm conviction, that no event would be more repugnant to the feelings of his royal father, than the knowledge, that the government of his son and representative had exhibited the sovereign power of the realm in a state of degradation, of curtailed authority, and diminished energy—a state, hurtful in practice to the prosperity and good government of his people, and injurious in its precedent to the security of the Monarch, and the rights of his family.

"Upon that part of the plan which regards the King's real and personal property, the Prince feels himself compelled to remark, that it was not necessary for Mr. Pitt, nor proper to suggest to the Prince, the restraint he proposes against the Prince's granting away the King's real and personal property. The Prince does not conceive that, during the King's life, he is, by law, entitled to make any such grant; and he is sure, that he has never shown the smallest inclination to possess any such power. But it remains with Mr. Pitt to consider the eventual interests of the royal family, and to provide a proper and natural security against the mismanagement of them by others.

"The Prince has discharged an indispensable duty, in thus giving his free opinion on the plan submitted to his consideration.

"His conviction of the evils which may arise to the King's interests, to the peace and happiness of the royal family, and to the safety and welfare of the nation, from the government of the country remaining longer

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reason to hope for his Majesty's speedy recovery."

There being a general cry, on the opposition side, of "Move! move!" Mr. Loveden was about to hand his motion to the Chair, when the Speaker informed him, that there was a question already before the House, namely, "that the order of the day be now read," which must be disposed of, before any other could be discussed.

Mr. *Pitt* said, that the substantial question for the House to decide was, whether, although they were assembled agreeably to notice, for the purpose of going into a Committee, in order to hear the limitations and restrictions which he should have the honour to submit to their impartial decision, they ought to interpose an additional delay, in order to stop short in their proceedings and wait for farther information. Anxious as he was to have the government put into such a situation as should enable it to act with energy and effect, he should nevertheless think it better to proceed prudently and properly, though a little more time were lost, than rashly and upon insufficient grounds to risk an error in a matter of so much importance. Before the House, however, attempted to interpose any farther delay, it was worth while to consider what information they had to proceed upon already, and whether any farther information were necessary. The first leading fact contained in the report of his Majesty's physicians was what that House had already resolved; that his Majesty was incapable of meeting his parliament, and attending to public business. The second was, that his Majesty was likely to recover. Had any particular circumstances arisen to render the prospect of his Majesty's recovery less probable, or were gentlemen enabled to state any given period, within which it would not take place? Could any gentleman suggest, that there were grounds for either of these two different opinions? because, if neither of these two points could be stated, he must, for one, think that the House had already before them sufficient information to enable them to proceed, and that they ought to proceed without farther delay. All his Majesty's physicians agreed in the first important fact which the House had voted; and they all said, that there was a probability of his recovery, though they could not fix any period of its taking place. But the House knew that there were those among the physicians who were most conversant with the disorder with which his Majesty was afflicted, and who had stated what was the longest time at which persons afflicted with the disorder in question had been cured; and also, as far as any point approaching to an average could be drawn in such cases, what was the average length of time before a cure could be effected; and thence had they suggested, that in their opinion his Majesty's recovery was most probably not at any very distant period; therefore, he conceived that the House had sufficient ground to go upon, without farther delay; and personally feeling extremely desirous that government should as soon as possible be restored to its necessary energy and effect, on account of the situation in which he had the misfortune to be placed; but feeling it still more on account of the public, he owned that he was anxious to interpose no farther delay, but immediately to go into the Committee, agreeably to the order of the day, that he might state what he had to submit to the impartial decision of the House. If, therefore, no gentleman could suggest that any new grounds had arisen since the last examination of his Majesty's physicians to induce the House to change their opinion on the two important facts resulting from that examination, he should think it his duty to oppose the motion of the hon. gentleman, and contend for the order of the day being then read.

Mr. *Fox* observed, that although the question for reading the order of the day met with his concurrence, he still rejoiced that the hon. gentleman had made his motion, because he thought the discussion which it had occasioned, was extremely proper, and because it was undoubtedly necessary that they should have some precise knowledge of the state of his Majesty's health, previous to their delibera-

in its present maimed and debilitated state, outweighs, in the Prince's mind, every other consideration, and will determine him to undertake the painful trust imposed upon him by the present melancholy necessity (which of all the King's subjects he deplores the most) in full confidence, that the affection and loyalty to the King, the experienced attachment to the house of Brunswick, and the generosity which has always distinguished this nation, will carry him through the many difficulties inseparable from this most critical situation, with comfort to himself, with honour to the King, and with advantage to the public. G. P.

"*Carleton House, Jan. 2, 1789.*"

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tions as to what might, or might not be fit restrictions to impose on the regent. The Chancellor of the Exchequer seemed to go upon the report of the physicians, when they were examined by a committee of that House, and had said, that they all agreed that there was a probability of his Majesty's recovery, and that at no distant period. It was not necessary to enter into any argument as to the precision of what the right hon. gentleman had stated, but certainly he had not precisely stated the facts as resulting from the report of the examination of his Majesty's physicians. That they generally agreed that it was probable his Majesty might recover, was undoubtedly true; but they did not agree as to the period when that recovery might be expected. Dr. Warren had not only made no such declaration, but had averred that he was perfectly ignorant concerning it, and had expressly said, that he could not give any satisfactory answer whatsoever upon the subject. If, therefore, they were to go upon the order of the day, they were bound to shut their ears to all the reports out of doors, and as the right hon. gentleman had desired them to confine themselves to the facts resulting from the report on the table, they ought to do so strictly, only keeping in their minds (what of course, would not fail to have its due impression on every gentleman) the circumstance, that the information upon which they were desired to proceed, was information communicated four weeks ago; and that therefore, they were to consider that four weeks had elapsed without any alteration whatever in his Majesty's health. Mr. Fox added, that many contrary reports in favour of his Majesty's recovery were in circulation. He thought the matter proper to be laid before House; not that he was much in the habit of paying attention to common reports; in general, no man treated them with more contempt; but he had heard that, in another place, a person of no inconsiderable authority, his Majesty's first minister, first in rank, and by no means last in consequence, he meant the Lord Chancellor had declared that he had grounds to hope soon to hear of his Majesty's recovery. This declaration he could not but consider as highly improper to be made, because, as on the one hand, if any man should unfortunately have reason to entertain the melancholy opinion, that there was no probability of his Majesty's recovery at all, he should deem it highly improper for such a one to declare his sentiments; so, on the other hand, if any man thought that he had good reason to imagine that his Majesty's recovery was at hand, it appeared to him equally improper for him to declare it, because that no man ought to declare his sentiments either on one side of the question or the other, unless the grounds upon which those sentiments rested, could be rendered the objects of examination and inquiry, and call forth facts substantiated by evidence. Mr. Fox adverted to the possible case of certain persons spreading rumours, merely with a view to delude the people by false hopes, and induce gentlemen to give their votes under an ill-founded presumption of his Majesty's recovery, of which there might not in truth exist the smallest probability. Perhaps it would be wise to shut their ears against all rumours whatever, and to act merely from the report of their committee. In that report they would see, that his Majesty's physicians had all of them been asked, whether signs of convalescence appeared, which was beyond all question a material part of the examination. If no signs of convalescence had since appeared, and none, the physicians had all agreed, had then appeared, a new inquiry certainly was not necessary. If signs of convalescence had since appeared in his Majesty—as it had been industriously rumoured they had—an inquiry was necessary; first, with respect to the fact of those signs; and secondly, with respect to the opinions formed of those signs by his Majesty's physicians.

Mr. *Edwards* conceived that the physicians had not desired to be understood that his Majesty had afforded symptoms of a recovery having begun to take place, but that there were previous signs of a recovery being likely to take place. This information was given the House four weeks ago, and therefore he was of opinion, that a fresh examination should be had, because, though there was no symptom of an actual recovery but the semblance of a symptom, it ought to be ascertained to the House whether the probability of his Majesty's recovery had increased or diminished.

Mr. *Burke* begged leave to congratulate the House upon the declaration of the Chancellor of the Exchequer, that he was anxious that the government should be put in a situation to act with energy and effect. It was the first time that they had

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heard of such a declaration, and it was well worthy their notice. The House would recollect, that when the report of their Committee was laid upon the table, they were given to understand that the King's illness was likely to last but a short time, and then, a full month afterwards, they heard they were exactly in the same state of expectancy which they experienced when their report was made. The right honourable gentleman had declared, that they were to go upon that report as the ground of their proceedings, having no more recent intelligence upon which they could, with propriety, ground their investigations. The right hon. gentleman would not surely contend, that the report of the House of Lords had not been made since the report of that House; because the examination of the House of Lords was taken since, and taken on oath, which, it must be allowed, gave the report of the House of Lords more authority than the report upon their table could possess. That report the Lords had published for their information, and for the information of the world in general. That report he held in his hand, and that report said, that the probability of his Majesty's recovery was more doubtful than their report stated it to be. No person could (the right hon. gentleman had declared) or ought to state facts without substantiating them, and going into an inquiry. He (Mr. Burke) had taken pains to ascertain facts, and he was ready, at a proper time, to prove them to the conviction of the right hon. gentleman and of that House. Not having been of the Committee, he possessed but little authority, and therefore he had endeavoured to supply the deficiency by information, and had resorted to the report of the House of Lords. In consequence of his Majesty's unfortunate illness, what infinite calamities had befallen the country; calamities which, unless speedily prevented, might be followed by others, the event of which he dreaded to contemplate; and, therefore, the sooner the government was restored to its wonted energy the better; but then, it ought to be really a government of energy and effect, and not a maimed, crippled, and impotent mockery of government. In order to ascertain the fact, however, that his Majesty's illness was not likely to be of short duration, let them turn to the report printed by the House of Lords. Mr. Burke here read several questions and answers from the examination of one of his Majesty's physicians before the Committee of the House of Lords, the substance of which questions and answers was as follows:

"Are there any signs of a returning understanding? No.—Since you was examined last at the Privy Council, have there been any more favourable symptoms of his Majesty's recovery? There are no symptoms of this disorder, but the single one of want of understanding. The words and the actions of persons under this disorder are accidental, and depend upon the difference of the persons themselves. A man that has a variety of ideas, will talk and act very differently from one who has fewer ideas, or has led a different course of life: his words and actions will be determined by the peculiarity of the man, and not by the distemper. Under this explanation the symptoms are more favourable.—Is the probability of his Majesty's recovery of his understanding varied or affected any way by the actual duration of his illness? The probability of cure diminishes as the time of the disorder lengthens."—Here, Mr. Burke remarked, was a regular ratio to guide the House in forming their judgment; strong grounds were laid for the government of their opinions, and if the argument was true, no fit occasion could present itself to examine the physicians again. If the last answer which he had read, was to be depended on—and let them remember it was an answer delivered by a grave and learned physician on oath—it bound their Speaker, it bound him, and it bound every member of the House. It was their duty to pay it due attention before they cut and carved the government, as they would cut out morsels for hounds, rather than immolate it as a sacrifice to the gods. The report in his hand expressly said, that his Majesty's recovery was less probable, because his illness had now continued a full month longer than when his Majesty's physicians were examined before a Committee of that House. The other side of the House expressing some displeasure at Mr. Burke's mode of reasoning, he said, that he perceived it was the wish of some gentlemen to disturb him, and prevent his delivering his sentiments. They had often done so with too much success before, but he was determined that they never should gain their ends again.

Mr. *Bastard* thought it immaterial to the purpose which they all professed to feel at heart, to have a farther examination

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of the physicians, before they proceeded to restore the government to its due tone. All he wished was, that proper steps might be taken for that purpose, without any farther delay; nor could he conceive that it was necessary at that moment to institute another inquiry, as to the present state of his Majesty's health. They had resolved that his Majesty was incapable of any public business, and having proceeded thus far, it was their duty to lose no time in providing for the exercise of the sovereign authority thereby interrupted. With that view he had already voted for one of the resolutions proposed by the right hon. gentleman. With regard to the Regency, he had made up his mind upon the subject, and was ready to state his opinion whenever it should be properly under their consideration. He would only say, that when a bill, which he conceived it would be necessary to pass on the occasion, should be introduced, he trusted that proper care would be taken that the House might receive constant information of the state of his Majesty's health.

Mr. *Vansittart* asked Mr. Burke the name of the physician whose answers he had read from the Report of the House of Lords, and whether the other physicians agreed with him in the opinion which he had stated.

Mr. *Burke* said, it was the examination of Dr. Warren. Here there was a general cry of Hear! hear! from the treasury side of the House, upon which Mr. Burke asked, were their schemes ripe, that they ventured thus early to betray their sentiments? Were they going to build a weak and miserable machine of government on that foundation of fraud and falsehood and calumny? Were they going to rob the first physician in this country of his character? He called upon them to show how Dr. Warren was likely to have given a false, precipitate, and ill-grounded account of the state of his Majesty's health on oath? By their clamour, they had furnished an unanswerable argument for a fresh inquiry. He knew Dr. Warren, he belonged to a society where the doctor frequently came, had always found him an instructive companion, and had ever heard him considered as a man of learning, great integrity, and honour; but if he were a desperate quack, unskilled in his profession, and daring enough to deceive the House of Lords, and to deliver an ignorant and unfounded opinion of the situation of his Majesty on oath, he ought to be enabled to ascertain the fact, and it could be ascertained by another inquiry, where Dr. Warren might be uncased to the eyes of mankind, and exposed to the contempt and ignominy which he deserved, if the imputation were true. Mr. Burke concluded with remarking, that a sudden cry was more eloquent than any composition of words, because the genuine sentiment of the soul betrayed itself in involuntary exclamations, while words were frequently used for the purpose of concealing men's feelings, and of exhibiting a false colour for their conduct to the eyes of mankind.

Mr. *Vansittart* said, that though the right hon. gentleman had answered one part of his question, he had taken no notice of the other, which was, a desire to know whether the rest of the physicians concurred in the opinion of Dr. Warren.

Sir *James Johnstone* said, that the right hon. gentleman would prevent them from going upon the most glorious act that the subjects of a free country could perform, the exercise of their undoubted right to provide a government for themselves, when the natural government was, through accident, or the unfortunate incapacity of his Majesty, no longer able to act. Sir James protested that he spoke his genuine sentiments independently of favour or any motive whatever but a sense of his duty. He had never been at St. James's since the year 1761, nor at Carleton House in his life; but he thought that a man might be a good member of parliament, and do his duty in that House, without either cringing at court, or sacrificing to the rising sun. Besides, how absurd was the expectation of those who wished for a farther inquiry! Was it ever known that two physicians agreed in opinion in the world! It was impossible to make them agree upon any case, and therefore it was idle to expect it; for which reason he advised the House, who were the true physicians of the state, to prescribe for it without farther delay.

Lord *North* said, that as a sudden cry had burst forth, when the name of a physician had been mentioned, to whom he confessed himself greatly indebted, and as that cry might be differently interpreted by those without doors, from its real meaning, he could not avoid rising to do justice to a character, which might be very materially affected, unless some explanation were given. The cry to which he alluded

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might, like other exclamations of a similar nature, have proceeded merely from the ardor of debate; but, as it could not be recalled, it might be understood, as if the other side of the House had reason to doubt the skill and integrity of Dr. Warren. Now, as he well knew that Dr. Warren was a physician of great learning, great abilities, great honour, and great integrity, for the sake of Dr. Warren's character, which could not be but materially hurt, if an idea should prevail that any part of that House thought him capable of giving false evidence, or disguising the truth when under an examination upon oath, he earnestly wished that any person who had the smallest doubt of his skill and integrity would state what the grounds were, on which he entertained that doubt. It was fair and candid for those who joined in the cry, to rise and justify it. If no one should rise, when thus called upon, he should take the cry to have been nothing more than a sudden burst of zeal for his Majesty's recovery, and that Dr. Warren's skill was acknowledged to be as undoubted, and his integrity as unimpeached, as if no such clamour had prevailed.

Mr. *Pitt* said, that having before explained on what grounds it was that he objected to the motion, and as the greatest part of the debate had consisted either of comments on what had fallen from him or of matter directed personally to him, it would not, he conceived, be considered as any violent infringement of the orders of the House, if he wished to speak a second time. He did not rise for the purpose of making any observations concerning either the character or the skill of Dr. Warren. His skill as a physician was generally known and acknowledged; but, with respect to the particular disorder with which his Majesty was afflicted his skill was comparatively little, compared with that of those physicians who had made the disorder their peculiar object of attention: and in saying this, he begged the House to understand that he spoke from incontrovertible, undoubted authority; from the authority of Dr. Warren himself, who, in his examination, told them, that he always thought it necessary to call in and consult others more experienced in that species of practice than himself. He repeated, therefore, his objection to any unnecessary delay; but, after the very extraordinary footing upon which what he had before said had been placed, it became, in his mind, unavoidable that some farther inquiry should be gone into. He had already contended that the report gave them ample grounds for proceeding, and then a right hon. gentleman had risen and told the House that they were to consider the probability of his Majesty's recovery to stand exactly as it did four weeks ago, with this difference, that the probability was the more distant, because a month had elapsed since it had been declared. To this opinion he could not accede; but, if the right hon. gentleman thought it a concession, because he did not wish for any farther examination, he was welcome to consider it in such a point of view. To the best of his belief, the very reverse of the right hon. gentleman's inference was the fact: and when he had made such a declaration, in consequence of the predicament in which he stood, he could not be supposed to speak wholly without information, whilst he affirmed, that what he knew induced him to make this suggestion to the House. With regard to their future proceeding, he thought that the grounds afforded by the report of the physicians were ample, and that the two facts to which he had before alluded, were the whole of what he should beg leave to propose to the Committee; but, when he found that, under the pretence of supposing that no alteration had taken place in his Majesty's health in the course of the past month, matters were stated in such a way, as to extort from him what he had just said, and which he had cautiously avoided in his former speech, from a conviction, that the House could not proceed upon private opinions delivered, or encomiums passed by others on particular characters, but must have the grounds of those opinions, and the truth of those encomiums substantiated by an inquiry, he was of necessity compelled to agree to that inquiry. He hoped to be permitted to make some remarks concerning the situation in which they were discussing the subject. The noble lord over the way had talked of the ardor and warmth common to debate; he was ready to admit, that to debate on political questions, where men were governed by their partiality, (and he meant a laudable partiality to one set of men over another) from a persuasion that their political system was wiser, they might show a degree of ardor, and occasionally betray warmth; but, in the present discussion, there could be no difference of opinion, because there could be but one wish; and, therefore he could

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not avoid most seriously lamenting the degree of warmth which had been used, where nothing like violence ought to have characterized their discussion. He could not but feel concern, in particular, that the right hon. gentleman over against him had done himself so much injury, as to have betrayed a degree of warmth which seemed to have arisen from his entertaining wishes different from those of the rest of the House. If the right hon. gentleman had discovered that the evidence of the House of Commons was not enough to proceed upon and that the report of the Lords was necessary to be recurred to, and if the right hon. gentleman felt the impropriety of delay, was it fair, was it candid, that an argument should be stated on those grounds for farther inquiry, and the report of the House of Lords quoted without once stating to the House, that the report was a report delivered and printed by the House of Lords nearly a month ago? Contrary to his own opinion, as to the necessity, and merely to prevent the House from proceeding to act upon the private opinions of any man, when the grounds of those opinions could be substantiated, he felt himself reduced to the necessity of agreeing to a farther inquiry: but the House, he conceived, would institute the inquiry, by a motion more generally expressed than that of the right hon. gentleman, and from motives of delicacy, proceed, as before, by a select committee, who might, he hoped, finish their examination in half a day or little more; and, as the House might content themselves with having the report, which would, he supposed, be short, read, without waiting for its being printed, he hoped they would not lose more than a day or two at farthest. Upon these grounds, he should be happy to withdraw the question of the order of the day, wishing however, that the House might not mistake the principles on which he did so.

Mr. *Burke* answered, that he always thought it necessary to stand upon his guard when the right hon. gentleman undertook his defence. The right hon. gentleman not being able to carry any point by reasoning, had fallen upon his motives, instead of his arguments, well knowing that it was a safer mode of attack, because every man could judge of the justice of the one, though no one could possibly guess at the truth of the other. There, was, however, so much of malice in the right hon. gentleman's compassion, and so much of censure in his lamentation, that he hoped he would have the kindness to be more sparing of his pity, and to leave him out of his lamentations for the future. In answer to Mr. Vansittart's question, whether the other physicians concurred in opinion with Dr. Warren, Mr. Burke read extracts from sir George Baker's examination. He then took notice of Mr. Pitt's observation concerning the tone and emphasis with which he had mentioned the circumstance of the Lord's report being a month old, and contended, that if the right hon. gentleman prescribed the mode of examination of the physicians, the House never would find out the truth; because, if learned men were to be examined by ignorant men, the ignorance of the latter rendered the learning of the former of no avail, it being impossible for those who were unknowing in a difficult profession, to put such questions to knowing men, as should extract the necessary information. If a difference of opinion existed among his Majesty's physicians, why was not Dr. Monro called? The keeper of one madhouse ought to be set against the keeper of another, and by the opposition they would come at the truth. He knew that Dr. Monro was, to that day, consulted by the first physicians in existence. The right hon. gentleman had asked for good grounds to be shown, why opinions were entertained that his Majesty's recovery was more improbable than it had been four weeks since; and he, in like manner, called upon the right hon. gentleman to show what grounds there were for the opinion which he entertained that a greater probability of his Majesty's recovery existed at present, than was perceived before. The right hon. gentleman had absolutely compelled him to say something, in consequence of his having thrown out a most malignant and unmerited imputation. To charge him with not wishing his Majesty to recover, was as foul an aspersion as could have come from the lowest man in that House; and he, Mr. Burke observed, should be the last free man in it, if he suffered himself, at any time, to be browbeaten by that right hon. gentleman. The right hon. gentleman was fond of throwing about his treasons and his ill wishes; but, for his own part, he would never tamely submit to either. With regard to any warmth which he had betrayed, he should not hesitate to affirm, that he had not let a word escape him, that he should be ashamed to have recorded. His voice

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was weak, and therefore he was forced to raise and exert it; but it did not follow that he was in a passion; he might say, with one of the ancients, who had been charged with being in a passion, "Feel my pulse, and say if it does not beat temperately." When he spoke of a fact, without being ready to adduce any authority for it, then let him be arraigned by the right hon. gentleman, and then let unworthy motives be ascribed to him. He hoped to meet with judges more favourable, than to attempt to criminate him from imputed wishes, when he had argued from authentic information. When he fled from inquiry, then let the right hon. gentleman aim his envenomed shafts at him. He was ready to go into a full and free inquiry at the bar; because there he could do justice to himself, but not in a committee. Let Dr. Warren be placed against another eminent physician, and a keeper of a mad-house, with thirty patients, against the keeper of a mad-house with three hundred, and thus the House would become possessed of well-founded and complete intelligence.

Mr. *Pulteney* was concerned that so much warmth had been shown in the debate. He was desirous of calling back the House to a proper degree of temper, and was against withdrawing the question for the order of the day. He considered that both sides had been drawn from their object merely by warmth, and that they had thence forgotten how much the country was daily suffering by delay. If any man were to say that it was impossible for his Majesty to recover, that would be a ground for farther inquiry; or if any man were to say that his Majesty was capable of executing public business, that also would be a ground for inquiry; but neither of these things were said. Between the two, there might be many shades of difference, but the House had no occasion to meddle with either the one or the other.

Mr. *Fox* rose again and observed, that it did not excite his surprise, when he perceived that the hon. gentleman who spoke last objected to the withdrawing of the question for the order of the day. That hon. gentleman had, he believed, not been a considerable time in this country, and therefore he must be a stranger to the various rumours and reports in circulation. Had he known as much of those reports as he did, the hon. gentleman would, he had no doubt, have thought the proposed inquiry absolutely necessary. With regard to the two propositions that the hon. gentleman referred to, they were nearly the words which he had himself used, on the first day that the subject had been mentioned in that House. He had then said, that all the physicians had declared themselves clearly and decisively of opinion, that his Majesty was incapable of meeting his Parliament, and of doing public business; but that his recovery was probable, though no one of them could say when his recovery was likely to take place. Agreeing, therefore, that his Majesty might recover, and that the probability was that he would recover soon, they must submit, for a short time, to a weak government, or else do an injury to his Majesty when the time should arrive for him to resume his prerogatives. If that were the argument, still he should contend, that it was necessary for them to proceed to learn when his Majesty's recovery was likely to take place; but, for his part, he had not the least doubt of the hopelessness of the case. Mr. Fox added, that, upon the present occasion, he must take notice of what had fallen from the right hon. gentleman over the way, and enter his protest against what would, if continued, inevitably end in putting a stop to all freedom of debate in that House. The right hon. gentleman had talked of warmth, and said it was allowable, when the political interests of parties were at stake, but not at the present juncture; and that therefore his right hon. friend had spoken from his wishes. If such attempts to impute unbecoming motives to members for their arguments, were made, unaccompanied with any one reason in answer to those arguments, it was enough to fire any man with indignation. He made no scruple to confess, that he felt equal warmth with his right hon. friend, as much warmth as he had ever felt on any political question whatsoever—not from a wish that his Majesty might not recover; he sincerely wished that he might; but from what was more strong in his mind, even than the satisfaction which must result from his knowing that his Majesty was restored to his health—his desire that the people should be acquainted with the truth. In such a cause, he was not ashamed to confess himself warm, and to avow his determination to resist an attempt to deceive an affectionate people, and to prevent that House from being deluded, under false pretences, into a mode of government which would sacrifice the

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constitution. In such a cause, he felt a warmth superior even to his attachment to majesty; superior to the love and loyalty which a subject owed his sovereign: an attachment founded in the love of a man of honour to truth, and in his detestation of falsehood. With regard to the manner in which the cry had been given from the other side, when Dr. Warren's name had been mentioned, it was impossible for the friends of that gentleman, and for every man feeling like a gentleman, not to glow with the utmost contempt. A physician's eminence, above all other professions whatever, stood upon the most secure and certain footing. No man employed a physician from favour; no man employed a physician because he was of his party, nor because he had given him his interest at an election; but they trusted their health in his hands, because he was known to possess superior skill, and on that account alone. He would believe that the great personage before alluded to by him, (the lord Chancellor) had an ill opinion of Dr. Warren, when he should hear that the learned lord trusted his health, when he should next have the misfortune to be ill, in any other hands. These were not encomiums, but facts. It was the confidence with which people of the most exalted ranks trusted their lives in Dr. Warren's hands, that made him so unusually eminent as a physician. The cry, therefore, if it meant any thing, must have been meant to convey an insinuation against his integrity; but, as the opinion of Dr. Warren's skill never could rise, so no more could the opinion of his integrity rise, though his integrity undoubtedly equalled his skill. The right hon. gentleman had been pleased to say, that he thought the probability of his Majesty's recovery was greater than before, and he had added, that he was provoked to declare that to be his private opinion. I will not be provoked (observed Mr. Fox) to declare any private opinion of mine to the contrary, nor will I assent to that of the right hon. gentleman; but if the House is to proceed on shades of opinion, as to the probability of his Majesty's recovery, which I think is extremely absurd, I must still contend, that the inquiry should be as free and open as possible.

After some further conversation, Mr. Pulteney waved his objection, and the question of the order of the day was withdrawn. Mr. Pitt then moved, "That a committee be appointed to examine the physicians who have attended his Majesty during his illness, touching the state of his Majesty's health, and to report such examination to the House." Mr. Sheridan moved, by way of amendment, to leave out from the words "examine the physicians," in order to insert these words, "inquire into the nature and present state of his Majesty's malady, and into the probability of his speedy recovery; and that they have power to send for such persons and papers as they think may give them sufficient information concerning the same." The question being put, that the words "examine the physicians" stand part of the question, the House divided:

Tellers.

YEAS	The Earl of Mornington Mr. Rose	221
NOES	Lord Maitland Mr. Grey	141

An amendment was next moved, to insert after the word "physicians," the words "and other medical persons," which passed in the negative. Mr. Pitt afterwards moved, "That the physicians who have attended his Majesty during his illness, touching the present state of his Majesty's health, be examined before a select committee." An amendment was proposed, by leaving out "select committee," and inserting "committee of the whole House," which passed in the negative, and a committee of twenty-one persons being named, the House adjourned.

Jan. 12. Sir *Robert Smyth* informed the House, that he had a petition to present from the electors of Colchester, but as he saw that the House was rather thin, and the subject of the petition might possibly occasion much discussion, he would merely give notice of the contents of the petition, and present it on the following Wednesday. Sir Robert then read the petition, which stated, that sir Edmund Affleck died on the 19th of November last, that his death occasioned a vacancy for Colchester, that a writ was issued for the choice of a representative for that borough in December last, that George Jackson, and George Tierney, esqs., became candidates, that the returning officer having proceeded to an election, had, on the close of the poll, declared the numbers of the votes on each side to be equal, and made his return accordingly to that House. The petition afterwards stated the incon-

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venience resulting to a town of so much trade as Colchester, from the circumstance of remaining unrepresented for two months, and during the agitation of questions of so much importance, as had for some weeks past engaged the attention of the House, and it was added, that the electors who had voted for Mr. Tierney, had no doubt but that in due time they should be able to establish the fact, that he had the majority of good votes, to the satisfaction and conviction of a committee of that House; they therefore prayed the House to take such measures as to their wisdom should seem fit, to prevent the town of Colchester from any longer remaining unrepresented.

Mr. *Dempster* said, that nothing could more militate against his ideas of the constitution, than the supposition that the House, under its present circumstances, could even go the length of issuing a writ, for the choice of a representative for a vacant borough, or take any one step whatever of a parliamentary nature, before they had the third estate restored, and were made a regular House of parliament. He therefore hoped the hon. baronet would wave his intention of presenting the Petition on Wednesday next, and not urge the House to proceed farther than the length of issuing writs, to which they already had proceeded.

Jan. 13. Mr. Pitt presented the Report from the Committee appointed to examine the physicians who have attended his Majesty during his illness, touching the present state of his Majesty's health, and to report such examination, forthwith, to the House. On the motion, that it be now read,

Mr. *Burke* rose. He said he would confine what he had to say to a few words, and a few words only. It always gave him pain to differ in opinion from gentlemen with whom he was associated for the purpose of discharging a public duty; and, on the present occasion, it gave him as much pain so to differ, as it ever had done on any one occasion that had occurred in the whole course of his life; but, there was a point of duty and in that duty a point of importance superior to every personal consideration. It was, therefore, in compliance with that important duty, that he then felt it incumbent on him to rise, to object to the Report being read, to move for its recommitment, to complain of the conduct of the Committee, and to accuse them of not having faithfully discharged their duty. The first matter which he should beg leave to state was, that instead of construing the order of the House, which appointed them, in its largest sense, and extending their inquiry to that degree which alone could be likely to furnish ample evidence, they had narrowed it within the literal construction of the order, and confined themselves to the bare examination of his Majesty's physicians, without calling before them any of the surgeons, apothecaries, and others, who had attended on his Majesty, and by that exclusion had debarred themselves of the opportunity of learning from the most likely channels of authentic information, the actual state of his Majesty's health, and the progress of that alteration and approach towards convalescence, from whence they were to collect their hopes of his recovery. From this circumstance of their having narrowed their ground, and included themselves within the letter of the law, they had deprived themselves of the possibility of reporting the whole truth; and thus, by a partial and imperfect report, had given what it contained of truth, in such a maimed and mutilated state, that it could not be relied on. Mr. Burke added, that he was aware that the Committee had acted under the order of the House; but still he thought it right to state what he had said, in support of his charge against the Committee; at the same time, he did not rest his complaint to the House chiefly on the circumstance of the Committee having narrowed their ground of inquiry, and confined it too literally to the order, upon the authority of which they had proceeded. There were other grounds of complaint, consisting of the omission of certain material circumstances, tending, in his opinion, to give the Committee a just estimate of the state of his Majesty's health, and of the probability of his cure. Mr. Burke explained these to consist of two points, the chief of which was, that of two of his Majesty's physicians having been set against each other, and examined as equal in point of skill. He did not so much complain of Dr. Warren and Dr. Willis having been put upon an equality, and so considered (because it was impossible for him to know, whether in point of fact they were so or not); but where there was a manifest difference of opinion between two professional persons, in respect to the nature of the King's case, the only way for unlearned men to enable

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themselves to decide which authority ought to preponderate and govern their opinion, was by calling other physicians before them, and by examining them, collecting to which of the two so set against each other, the greatest degree of credit ought to be given.—Mr. Burke here observed, that it appeared plainly to him, in consequence of what had come out in the course of the examination, that his Majesty's life was not safe, nor had it been safe since he had been put into such hands. He did not mean by this declaration, that there was any where a treasonable design to take away his Majesty's life. Heaven forbid, that there should be any such design! He imputed a murderous design to no man, but he must take the liberty of repeating that it appeared to him—and he believed he might say, that it thus appeared to others of the Committee—that his Majesty's life was not safe, and all this owing to no bad design in any person, but to the rashness of those to whom the care of his royal person was intrusted. That trust, if he might so phrase it, was of too sacred importance to be suffered to be executed rashly, carelessly, and improperly. In it were involved the life of the sovereign and the interests of his people.—Mr. Burke declared that he should, on the grounds which he had stated, move to recommit the Report, because it was in his opinion, highly essential, that, having contrasted two physicians together, the other physicians ought to be fully examined upon the points in dispute between those two physicians so contrasted; and if the Committee did not possess sufficient powers to have pursued such an examination, they ought immediately to have come to the House and asked for farther powers. He was aware that his motion would be attributed to delay; but although the Report upon the table certainly would appear important; it must still acquire an additional consequence if rendered more extensive, and it would at the same time prove more faithful, more fair, and more full, as well with regard to its object, as to the physicians themselves.

Mr. *Pitt* said, that the right hon. gentleman had accused the Committee of having narrowed their inquiry; which, when the time during which the Committee had continued engaged upon their investigations, and the bulk of the report on the table, nearly 400 folio pages, were considered, he did not believe would be the sense of the House. The right hon. gentleman said that they had narrowed their inquiry, because, having been ordered by the House to examine his Majesty's physicians, the Committee had not proceeded to examine his surgeons and apothecaries, for examining whom, the sense of the House had been, expressly taken before the Committee sat, and the sense of the House had been that they should not be examined. Whether the Committee had not examined his Majesty's physicians for the last week fully, would be seen from the report. But as, from the manner in which the right hon. gentleman had stated, what he had called the setting two of his Majesty's physicians one against the other, an impression might possibly be made upon the minds of the House, that the Committee had examined only two of his Majesty's physicians, it became necessary for him not to let the House separate without informing them that when the report was read, gentlemen would find that the Committee had examined every one of his Majesty's physicians, and that over and over again. They had put to all of them every question that appeared to them immediately to lead to the main point and object, and, he was ashamed to say, a great many collateral questions besides, all of which had a very remote relation to the state of his Majesty's health. But, in the course of their inquiry during the preceding day, a point had manifested itself, which was not the point of the King's recovery, nor the point of Dr. Willis's or Dr. Warren's opinion concerning the probability of that most desirable event, but a point which went to the skill of his Majesty's physicians; a matter which the Committee was neither authorized nor competent to inquire into. The right hon. gentleman had himself, at the last moment when the Committee were about to close their examinations and to dismiss the physicians, thought proper to introduce collaterally a point that conveyed a charge against Dr. Willis's conduct, and the single circumstance on which the right hon. gentleman had then rested the strong language which he had just used, of "his Majesty's life not being safe," was, its having come out, that Dr. Willis had trusted a razor in his Majesty's hand; a fact, which Dr. Willis most readily admitted, and without the smallest reserve had stated his reasons for his conduct. Mr. Pitt contended, that the sort of inquiry, for not having suf-

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fered which Mr. Burke had charged the Committee with not having done their duty, was an inquiry into the skill and prudence of Dr. Willis, which the Committee had no right to make, and that the circumstance on which he had grounded the strong language he had used, was chiefly a question of reason and propriety, and not directly in point to the object before them; and therefore the Committee, after being satisfied as to the immediate end of their inquiry, had thought it their duty, instead of frustrating the expectations of that House and of the public, by what they considered as unnecessary delay, to close their examinations and make their report. The right hon. gentleman, he conceived, could not be serious in objecting to the report being read, because it would be impossible for him to introduce the motion of recommitment, or any other respecting it, unless the report were first read *pro formâ*. It had been his intention to have moved, that the order for going into the Committee on the state of the nation should stand for Thursday; but from the extreme length of the report, it would be impossible to have it printed and ready for delivery before Thursday morning; and as it was voluminous, gentleman could not read it through in time to proceed upon it in the same day. He found himself under the necessity, therefore, of moving that the Committee on the state of the nation, should stand for Friday.

Mr. *Windham* said, that the first observation he had to make on what had fallen from the Chancellor of the Exchequer was, that whether the report proved long or not, was a mere relative consideration. The length or shortness of a report undoubtedly depended on the importance and extent of the object to which that report was confined, and it was of no consequence whether the Committee had deliberated one day or ten, or what was the number of sheets contained in the report. They had been ordered to inquire touching the state of his Majesty's health, and the probability of his recovery, and they were to form their own judgment upon it, and report that judgment to the House. They could have no judgment till they had inquired and obtained information, and that information they were to receive through his Majesty's physicians. In order to obtain it, they must necessarily ask them questions of all sorts, and not merely as to their knowledge of the present state of his Majesty's health and their opinion as to his recovery; because, that kind of examination would prove short indeed; and might be completed by making the number of questions the same as that of the physicians. Mr. Windham argued the necessity of sifting the grounds of the opinions of the physicians, as well as of ascertaining the facts on which those opinions rested.

Mr. *Burke* said, he had not complained of the Committee's having narrowed their inquiry on the ground of their not having continued long enough engaged, or made a report sufficiently voluminous; but on account of their too strict observance of the order by the authority of which they had proceeded; nor had his objection gone to the examining of two witnesses only, but a difference of opinion having been stated by those two, he had contended, that the other physicians ought to have been examined as to the grounds of that difference of opinion, whence the Committee might have fortified their own minds, and enabled themselves to decide which opinion was right. The right hon. gentleman had intimated that much of the discussion which had kept the Committee sitting so long, had been owing to those who had differed in opinion. If the House would have a little patience, he believed that it would be found to be otherwise. With regard to his having introduced a point at the end of the inquiry, which had led to collateral circumstances not immediately relative or material, he appealed to the right hon. gentleman, whether he had not, in the early part of the examination, given way to members of the Committee of greater weight and authority than himself; but, when he had done so, he had expressly observed, that before the inquiry closed, he should put questions of the nature complained against. If, then, he had been wrong at the end of the inquiry, he had been wrong at the beginning, and ought to have been stopped at the outset.

The question for reading the report was put and carried; and as soon as the report had been read *pro formâ*, Mr. Burke moved, "That the said report be re-committed," which motion was negatived. It was then ordered that the House should resolve itself into a committee on the State of the Nation on Friday.

Jan. 16. Sir *Robert Smyth* rising, read over the Colchester Election Petition, in

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the same manner as on Monday. He was aware that there must be some small irregularity in the House's proceeding to notice the petition, but as they had issued writs, chosen a speaker, and exercised other important functions, he saw no reason for their stopping short, and refusing to take into consideration a complaint of an improper return upon an election, by the means of which, so considerable a town as Colchester, had remained misrepresented during the whole time that the late very important subjects of discussion had been under agitation. He rather hoped that no objection would be made to receiving the Petition, as on the day when a doubt had been started, whether, under the present circumstances of the House, the Speaker ought to issue his writ to choose a representative for a vacant borough, a right hon. gentleman had advised, that the Speaker might issue his writ, and expressed an anxiety, that during the agitation of questions so new, critical, and important in their nature, as full a representation of the people in that House as possible might be obtained. The subject would justify much discussion; but, as other matter of infinite magnitude was expected to occupy the attention of the House, respecting which the public curiosity was extremely impatient, he would barely move for leave to bring up the Petition.

Mr. *Dempster* begged to remind the hon. baronet, that upon a former day he had intreated him to wave his intention of agitating the Petition at present, and this, because he thought that the House had no power to do any one matter of business under the present circumstances, other than what the necessity of the case absolutely required.

Mr. *Pitt* said, that as the House had met for the investigation of most important business, respecting which the impatience of the public had risen to a great height, he should not devote many moments to the present subject. It appeared to him that the manner in which the Petition was brought forward, was different from that in which petitions, in cases of election, were generally introduced, which of itself was sufficient to show that the case was new. In general, petitions complaining of undue elections and false returns, were brought and laid upon the table, within fourteen days of the opening of the session, in consequence of an order of the House. At present, it was notorious that the House had made no such order, the session not having been regularly opened, and therefore the hon. baronet, he presumed, had moved for leave to bring up the Petition. The hon. baronet had stated, that a doubt being started as to the propriety of the Speaker's issuing his writ for the election of a representative of a vacant borough, he had risen and declared his wish to have the representation of the people in that House as full and as complete as possible, during the discussion of those very critical and important questions, to which the exigency of the times unfortunately gave occasion. The fact undoubtedly was so, and he still entertained the same opinion; but though he was very ready to take every proper step towards that end, yet as the other business of the day pressed exceedingly, without meaning to decide at all upon the question that had been moved, he thought the most advisable mode for the House to pursue, would be, to adjourn the debate upon it till the ensuing Monday, by which means, gentlemen would have had time to look into Mr. Grenville's Bill, and make up their minds as to the measure which might prove the most proper for their adoption.

Sir *Robert Smyth* answered, that as the town of Colchester was so respectable in point of view, he thought its remaining unrepresented, while such critical, constitutional questions were daily agitating in that House, a matter of serious moment, and had therefore felt it is duty to apprise the House of the fact, and submit the Petition he had read, to their wisdom and judgment.

The motion for adjourning the debate upon this question was put and carried. Mr. Pitt now moved, "That the order of the day be read for the House to resolve itself into a committee to take into further consideration the State of the Nation." The same was read accordingly, with the order for referring the several reports which had been brought up and read, to the Committee. The Speaker left the chair, and Mr. Brooke Watson took his seat at the table.

Mr. *Pitt* then rose. He opened his remarks, by expressing his concern at perceiving that the particular situation of the country called upon them to exercise a right, that had devolved upon them, in consequence of the melancholy situation of his Majesty, which rendered him incapable of exercising the royal authority,

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Upon the present distressful occasion, it behoved them to provide the means of supplying the deficiency; but, in doing so, he trusted that it must be the wish of every gentleman, that they should proceed in the manner the best calculated to give general satisfaction, and the most likely to secure the approbation of the people, who, he had the happiness to know, had generally attended every step which they had hitherto taken. He sincerely wished, that every measure which he should have the honour to propose, might be fully discussed, and fairly decided upon; that the nature of the case, the general principles on which they ought to proceed, and the application of those principles, might be clearly and distinctly pointed out. In so doing, they would be best enabled to meet the emergency which called upon them, and to provide for the defect of the personal exercise of the royal authority.

The business of the Committee lay in a very narrow compass, notwithstanding the voluminous reports on the table. In the report last delivered, there was abundant matter of confirmation to him, of the propriety and prudence of those measures which he was, as the Committee were aware, prepared to have proposed to them nearly ten days ago. But, though there was much material information in that report, there was no difference, in his opinion, in the ground of what he had to offer, but that on the former day, as well as on the present, the Committee had more information before them, than was sufficient to bear out all that he should submit to their consideration. Had he, on the former day, felt it necessary to state the ground on which he intended to have built his proceeding, he should have stated it thus, "That his Majesty was incapable of meeting his parliament, or attending to public business; that the unanimous opinion of his physicians was, that his Majesty's recovery was more probable than the contrary, and that all the physicians agreed that it was impossible to ascertain when that so much wished-for event might take place; but that those who were more immediately conversant with the disorder with which his Majesty was afflicted, had declared that the majority were cured; and that one of the physicians, the most conversant of any, had stated, that the greatest length of time which he had ever known the disorder to continue, was a year and a half, or two years, that the shortest was three months, and that the average five or six months." In saying even that, he should have said more than was necessary for any argument on the principle on which he went. What they had to provide for, therefore, was no more than an interval, and he flattered himself that it would prove but a short interval. If, however, unfortunately, his Majesty's illness should be protracted, they might leave it to parliament to do what was at present clearly unnecessary—to consider of a more permanent plan of government. If they regarded the disorder not in itself incurable, every man must admit that the provisions ought not to be permanent. Mr. Pitt now recapitulated what had passed concerning the subject upon the Tuesday se'nnight, and the line of argument that had been adopted, which rendered it impossible for him to avoid giving way to a more narrow and minute inquiry than had before taken place; and, however he might feel pain on account of some particular points which had passed in the Committee, he could not, upon the whole, but rejoice that he had given way, as it now appeared that the argument on which the right hon. gentleman over against him had relied, viz. that, because a month had elapsed since the former inquiry, his Majesty's cure was to be considered as the more improbable, was not grounded; and as, however much the physicians disagreed in other points, they were unanimous that the probability of the cure rested precisely on the same grounds as before;—a circumstance which, he was persuaded, would give as much pleasure to the right hon. gentleman as it had done to himself.

With regard to the difference of opinion between the physicians, as to the prospect of a recovery, it appeared to him to depend on two circumstances, by which it could be decided on whose opinion the greatest reliance ought to be placed. The first circumstance was the knowledge of the malady in general; and the second the knowledge of the particular case of the patient. Three of his Majesty's physicians had been conversant with the malady. Two others, thought not so conversant were well acquainted with his Majesty's habits. These two (sir George Baker, and Dr. Warren) attended his Majesty for two hours each day; the three others from the evening until eleven in the forenoon. Surely, it was natural for those who attended his Majesty most to be the

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best judges of his situation; and it was remarkable that Dr. Warren and sir George Baker were the least confident of a cure, and the other doctors had much greater hopes; but Dr. Willis, who attended his Majesty more than any of the others, was more sanguine than them all. Sir Lucas Pepys stated circumstances which did not amount to a certainty of a cure, but which proved an abatement of his Majesty's disorder. Dr. Willis was of opinion that all the symptoms since the time of the last examination, were more favourable. In a word, all the physicians agreed in the probability of his Majesty's recovery, and that the length of the time had made no unfavourable changes: those, too, who understood the disorder best, thought it more favourable.

For his own part, he wished not to go at length in to the particulars of the last report, on which the Committee might safely rely, as there were those on the Committee who were anxious to sift, with the most scrupulous accuracy, every point likely to prove his Majesty's recovery. There had been those who gave no considerable degree of credit to Dr. Willis; if, therefore, any observations should arise from them, he conceived that they would be made in the same spirit, and with the same ability, as when they were urged in the Committee above stairs. Upon this occasion, he felt it but common justice to commend the skill, integrity, and good sense of Dr. Willis, which were evinced under a severe cross-examination, calculated to puzzle simplicity, and leave the coolness which should, of necessity, accompany the delivery of evidence, too unguarded. However it might suit with the political intrigue of the times, or be convenient to circulate them at present in London and its environs, he would not anticipate the remarks which might be made; but, if there were any such remarks to be advanced, he desired, if they chose to discuss the credit of either this or that physician, that they might understand the nature of the imputation. In the course of the inquiry above stairs, a circumstance had come out, over which he would not draw a veil of delicacy, as he was not ashamed to bring it forward. If it be stated to the discredit of any physician, that he had submitted to be unduly influenced by a great personage, let the committee know to what physician the imputation of having consented to give an untrue account of the state of his Majesty's health applied: if an impropriety of transaction like that was imputed, he would not believe it till it was distinctly ventural to be said, and when he used the term venture, he did not mean to use it with regard to the exalted station of the person in question, but with regard to the transaction itself; nor did he (he repeated it) believe that any man would venture to charge blame of any kind on the respectable personage in question, who had lived for almost thirty years in this country without traduction, a pattern of the most unexampled affection, domestic tenderness and virtue; against whom the breath of calumny had not dared to send forth even a whisper; and who could not merit it at a moment, when visited by a calamity which rarely befals a private person, but which surely was not a little aggravated when it becomes the lot of the family of a person in so exalted a rank as the sovereign of the country. As to the fact itself, it appeared that Dr. Warren allowed that apparent circumstances of an amendment began to appear; and there was, in consequence, a wish on the part of her Majesty that the report might be such as should give the public the most favourable account of his Majesty's health; but would any man prove that any undue influence had been used for that purpose? Mr. Pitt explained in what manner the words "a comfortable way," had been introduced into the report, and then spoke of Dr. Willis, declaring that he was known in the country where he lived, by his character, and by the happiness which he had been the means of giving to the numerous families who were bound to bless him for the good effects of his skill. He mentioned another physician whose character was likewise high, but declared that if he wished to draw a true conclusion of his Majesty's state of health, and prospect of recovery he would wish to draw it from Dr. Willis more than from any other physician.

At length, Mr. Pitt adverted to the situation for which they were to provide, and this situation was no less than the cessation of the personal exercise of the royal authority: a deficiency for which no previous provision had been made. As the cause of deficiency, he had every reason to think, would prove but temporary, they must deliberately consider what were the cases for which they were to apply a remedy. The first object for which they had to provide, was to secure the establishment of a government in the country,

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equal to its safety and the dispatch of public business. Out of the nature of such a provision another duty arose, of equal importance to the other: and this was, to take care that the measure embraced did not go beyond the necessity of the case. The Committee were to provide powers for the exercise of the government, and they must take care to place those powers in proper hands; but, above all things, to recollect that they were not placing a king on the throne. They were to remember that the throne was full, that no right any where existed to exercise the royal authority, but that which was conferred by that House; they were to take care to provide against any embarrassment in the resumption of the regal authority, whenever God, in his providence, should permit the rightful holder again to exercise it. They were to provide only for the necessity of the case, and not to exceed it; and therefore the measures which he should propose, would be to invest his royal highness the Prince of Wales with the whole royal authority, to be exercised in the name, and on the behalf of his Majesty, under such limitations and restrictions only as should be provided. The principle was not new, although the circumstances of the case happened to be unprecedented. No man would say, that the same power which the principle exercised ought to be given to the delegate; and if the House referred to precedents, they would find that no one instance could be met with of the whole of the royal prerogatives having been so delegated. On the contrary every precedent which bore the smallest analogy to the present situation, evinced the direct contrary, and that doubtless, with a view to facilitate and insure the resignation of the delegate, when the principle should be competent to exercise or to resume his authority. Referring them to the Act of Queen Anne (the Act of Succession), the Regency Act of George 2, and the Regency Act of the present King, Mr. Pitt added, let them look to the case of a sovereign disabled by infancy. Was the regent of the country invested with full and unlimited power to exercise the royal authority? Undoubtedly not. In the three regency bills in the statute books to which he adverted, were there not limitations? There were in every one. All the powers might be given, but then they were not given to one person. What was the principle in a case of minority? It was thought unsafe to vest all the powers in one person? He laid particular stress on the Regency bill in the reign of George 2, and observed, that there appeared at that time to have been a wish on both sides of the House to doubt what confidence should be placed in the regent. They were afraid of making a precedent, and therefore they gave the royal powers among many, appointing a council, without whose consent the regent could take no important step whatever. The will of the predecessor was, by one of the bills, to be the system followed, while the heir apparent continued a minor;—a principle which he owned he thought went too far, although it was a plausible principle, and was apparently most applicable to the present case. After reasoning upon the three different precedents, and touching upon the short protectorate of Richard 3, and the other protectorates or guardianships in the early periods of our history, and endeavouring to demonstrate by argument, that as, in no preceding instance, all the powers of royalty were given to one person, so, in the present instance, which certainly differed most essentially, they ought not to be, nor could they be, trusted in the hands of one person, without proving a hazardous, and, possibly, a prejudicial experiment, he declared that he would give his vote for investing the Regent with all the powers which are necessary, but would not agree to give any which were not requisite to carry on the government of the country with energy and effect.

Mr. Pitt now observed, that he need not trouble the House with his first resolution, as he had already stated its substance and effect. The second resolution (which he read) was, to restrain the Regent from exercising one branch of the prerogative peculiarly inherent in the Crown, and this was, the power of granting peerages, excepting to his Majesty's sons, being twenty-one years of age. This restriction he thought necessary, as the Regent ought not to confer any grant which might produce difficulties and embarrassments, when the happy hour of his Majesty's restoration to his health should arrive. The object of investing the Crown with the power of creating peers was, to enable the Sovereign to distribute rewards to eminent merit, and to give the Crown the means of choosing persons who should add to the number of one of the branches of the legislature. The creation of peers was one of those powers which belonged

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personally to the King. When he made this assertion, he scarcely meant to inculcate that it was the individual right of the King to create peers, but that it was an especial prerogative of the Crown. He enumerated the grounds on which he conceived that the Crown might exercise the privilege of making peers, and described what he regarded as the inconveniences which might follow from the regent having the power to make peers, contending it was possible that the consequence of the House of Lords might be lost, the system of the country overturned, and the government end in a pure monarchy, an aristocracy, an oligarchy, or some resource equally distant from our present constitution. He desired, if he failed to enumerate any particulars connected with any part of the subject, to have them pointed out to him. He reasoned upon the sort of effect which (as he supposed) might arise from depriving the regent of the power of creating peers, merely for a time, observing, that surely it would not be contended, that for want of such an incentive for a few months, the country was likely to be deprived of the service of men of merit. If his Majesty recovered, as they all hoped, and had reason to expect he would, the power of creating peers might be exercised by the rightful holder of the prerogative; but if unfortunately his Majesty should grow worse, and be pronounced not likely to recover for a long time, Parliament would have it in its power to take off the restriction, and vest the Regent with a power which, though not at present, he was ready to admit might in time become necessary to the carrying on of a powerful government. He mentioned the fluctuation of wealth and property in the country, and the propriety of occasionally raising monied men to the peerage, in order to give the landed interest its fair balance and share of the honours in the power of the Crown to bestow. He alluded also to the sort of hands into which the conduct of public affairs was likely to fall, and said that unless they had reason to expect a desperate confederacy and cabal to obstruct the public measures, he saw no sort of inconvenience which could result from a temporary withholding from the Regent the power of making peers. As an abuse of the prerogative of making peers, he urged the possibility of such another confederacy and cabal forming (as had been convicted of a design to overthrow the constitution a few years since), who might give the Regent advice which the Crown would probably have rejected, and such a number of peers might be created, as might considerably embarrass the Crown in carrying on the government, when his Majesty should be restored to his health. For his own part he meant to make no professions, but he desired that what he was going to say might be considered as the test of his future conduct; and, he declared, that he should not be found an opposer of the just and wise measures of the new government, which would remain to be discussed hereafter. He urged other arguments in the attempt to prove that the withholding of the power of making peers for a time was what they owed to the real interests of the country and the true sovereign; that it could not become prejudicial to the Regent's government; and if it should threaten to grow detrimental, they would have the remedy in their own hands; a principle which was coupled with that of doing nothing beyond the real necessity of the case. At the first view, the principles which he had laid down might be supposed not to confine themselves merely to one branch of the legislature, and it could be contended, that as the present House of Commons had proved themselves so loyal to their sovereign, and attentive to the interests of his people, his Majesty would be happy to receive the congratulations of the same House of Commons on his recovery; but a little more consideration would show, that this would perhaps be reserving from the people an opportunity of showing their sense of the conduct of their representatives; and no danger could accrue to the sovereign in sending them back to their constituents, if the Regent should deem it wise or proper to embrace the measure, especially to a people whose loyalty had been so conspicuously manifested by the general and heartfelt sorrow expressed throughout the kingdom in consequence of his Majesty's melancholy situation and illness.

He now read the third resolution, which was a restriction preventing the Regent from allowing any grant, patent, place, reversion, or annuity for life, excepting in particular unavoidable cases, such as to judges, and others. As this resolution ran so much upon the principle of the preceding one, Mr. Pitt said that it was unnecessary for him to go into farther

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explanation of it. The fourth resolution restrained the Regent from exercising any power over the personal property of the King. Mr. Pitt on this occasion observed, that he scarcely thought it necessary to pass this resolution, as it was not probable that his Royal Highness would interfere with his Majesty's personal property in his life time; but, as they were acting upon parliamentary principles, he thought it his duty to submit it to the Committee. The last resolution would be for entrusting the care of the royal person, during his Majesty's illness, where of course all men would be unanimous in agreeing that the royal person ought to be placed in the guardianship of the Queen; and, with this trust, his intention was, to propose to put the whole of his Majesty's household under the authority of her Majesty, investing her with full powers to dismiss and appoint, as she should think proper. Without being invested with this control, he imagined that the Queen could not discharge the important trust committed to her care. He spoke of the officers of high rank in the household, who, though their places might justly draw forth the ambition of men of the first rank and family in the kingdom, were nevertheless only the first menial servants of his Majesty, and actually necessary to direct and superintend the greater part of his Majesty's household. He stated that these officers, such as the Master of the Horse, Lord Chamberlain, Lord Steward, and others, were, by many, thought high officers of state; but the fact was otherwise; they were the menial servants of the Crown, and essential to its dignity and splendor. He argued against new-modelling the royal household, under the present circumstances, and spoke of the anxiety and pain which he conceived it must give his Majesty, to find all those whom he had chosen to be about his royal person discharged. Possibly, his Majesty's illness might continue but a few months, perhaps a few weeks; and, in such a situation, would it, he asked, be delicate and respectful to make a change? Those who were lords of the bed-chamber, he admitted, did no great duty at present, but the equerries were employed. He owned, that this part of the arrangement was a matter of some difficulty; but when he considered what his Majesty would feel, when he waked from his trance of reason, and asked for those attendants, and was told that his subjects had taken advantage of his momentary absence of mind, and changed them, he flattered himself that no gentleman would object to such a mark of attention being paid to his Majesty. The Regent, indeed, was different from the King; but at the same time the Regent ought to have a retinue adequate to the importance and the high rank of his station; and he meant to propose that he should have such a retinue, which would unquestionably be some increase of expense to the country; but, as it was unavoidably necessary to appoint a regent, it was equally necessary to maintain the dignity of the character, and gentlemen would not, he conceived, grudge a little expense on such an occasion. He recurred again to the power to be lodged in the hands of the Queen, and urged the necessity of considering the rank of the King, the rank of the Prince of Wales, and the rank of the Queen, who was consort of the sovereign, and mother of the Regent. It was not to be supposed, therefore, that the influence arising from the patronage holden by the Queen, would operate to the detriment of the Regent's government; and surely to conceive as much, would be equally indecent and improper. Mr. Pitt then handed his Resolutions to the Chairman. They were as follow:

1. "That it is the opinion of this Committee, that for the purpose of providing for the exercise of the royal authority, during the continuance of his Majesty's illness, in such manner, and to such extent, as the present circumstances and the urgent concerns of the nation, appear to require, it is expedient that his royal highness the Prince of Wales, being resident within the realm, shall be empowered to exercise and administer the royal authority, according to the laws and constitution of Great Britain, in the name and on the behalf of his Majesty, under the style and title of Regent of the kingdom, and to use, execute, and perform, in the name and on the behalf of his Majesty, all authorities, prerogatives, acts of government, and administration of the same, which belong to the King of this realm, to use, execute, and perform, according to the laws thereof, subject to such limitations and exceptions as shall be provided.

2. "That the power so to be given to his royal highness the Prince of Wales shall not extend to the granting of any rank or dignity of the peerage of the realm to any person whatever, except to

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his Majesty's royal issue, who shall have attained the full age of twenty-one years.

3. "That the said powers should not extend to the granting of any office whatever in reversion, or to the granting of any office, salary, or pension, for any other term than during his Majesty's pleasure, except such offices as are by law required to be granted for life, or during good behaviour.

4. "That the said powers should not extend to the granting of any part of his Majesty's real or personal estate, except so far as relates to the renewal of leases.

5. "That the care of his Majesty's royal person, during the continuance of his Majesty's illness, should be committed to the Queen's most excellent majesty, and that her Majesty should have power to remove from, and to nominate and appoint such persons, as she shall think proper to the several offices in his Majesty's household, and to dispose, order, and manage, all other matters and things relating to the care of his Majesty's royal person, during the time aforesaid: and that for the better enabling her Majesty to discharge this important trust, it is also expedient that a council should be appointed, to advise and assist her Majesty in the several matters aforesaid, and with power, from time to time, as they may see cause, to examine, upon oath, the physicians and others attending his Majesty's person, touching the state of his Majesty's health, and all matters relative thereto."

The clerk having read all the resolutions,

Mr. *Pitt* said, he had not entered fully into an explanation of the last resolution, because, although he had thought it his duty to state it to the Committee, he meant it to be considered as a separate and distinct object, and so to be, at a fit opportunity, debated and discussed. He would farther remark, that it had occurred to him, that in cases of difficulty and embarrassment, on a subject of so delicate a nature, it might prove a comfort to her Majesty's mind to have a council to consult, but it was intended to make it merely a council of advice.

The Chairman having read the first motion,

Mr *Powys* declared, that he could not avoid considering the whole system opened by the right hon. gentleman, as a monstrous fabric, tending to mutilate and dismember the constitutional authority of the Crown. When the Committee of Inquiry, of which he was an unworthy member, first sat, he knew all that was necessary for him to know of his Majesty's situation; he knew that he was incapable of meeting his parliament, or attending to public business; and that, lamentable as his situation proved, it was nevertheless accompanied with the hope of his recovery, but the time of that recovery, was declared to be uncertain. What was then the next proceeding? They had voted a resolution, that it was their duty to preserve the royal authority whole and entire. What were they now called upon to perform? To dissolve, separate, and parcel out that royal authority, which they had solemnly resolved to preserve whole and entire. What was the constitutional authority of the Crown? He took it to be an assemblage of all the duties of the kingly office defined by statute. When, and to which of the three estates was assigned the power of bestowing honours? To the Crown; and that power of the Crown was derived from the same source from which that House derived its power. It was an integral part of the power of the people; and, in the very moment of their taking from the Crown the power of bestowing honours, the constitution ceased to continue that which was framed by our ancestors. He had been informed, that the political character of the King was entire. Gracious Heaven! was not the political character of the Crown entire! Was it necessary that government should be new-modelled? Were the regal rights inherent in the person of the king, or were they annexed to the office? He had heard, in another place, that there was an infirmity in human nature which naturally attached itself to power; and the person who made this observation, doubtless felt an entire conviction of its truth; but, was that infirmity confined to princes? Was there any thing in the conduct of the heir apparent that warranted a suspicion of his labouring under such an infirmity? Those who harboured a suspicion were bound to prove it. Had he acted improperly during his father's illness? Had he ever attempted, by intrigues or cabal, to wrest the sceptre from the hand of his father? Had he been guilty of high treason? It was not consistent with the liberality of the right hon. gentleman to judge of a man's conduct, in a situation in which he had never been placed. The right hon. gentleman had said, that there might be bad advisers of the Regent. Might there not be bad

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advisers of the Queen? This country would look at their actions with peculiar jealousy. The right hon. gentleman had inferred, that the new government would have able leaders. Let those who were without offence, cast the first stone! But, was there no energy left in that House to censure ministers, and control their conduct? He flattered himself they would still enjoy a full competence to grapple with all ill-advisers. In the resolutions, if there were any point plausible, and, at first sight, reasonable, it was in the third resolution, containing the restrictions against granting offices, patent places, and pensions; but all this proceeded on the mistaken notion that they were private property. That part of the prerogative which was the property of the Crown, he always had considered as a part of the public revenue. Were none of the royal household the political servants of the Crown? and had not the right hon. gentleman again and again declared, that the regent should have the appointment of his political servants? Did the right hon. gentleman know how many members of that House, and how many of the other House were on the establishment of the royal household? And was this to secure to the King the safety of his Crown against the ambition of the Regent and his ill advisers? Why would they vest one power in the regent and not another? Did they suppose that the regent would abuse it? Did they really feel that to be the case? Had they not some other object in view? There could be no argument for curtailing the prerogatives of the Regent, which would not apply to the exclusion of the heir apparent from the regency. If that was the object, let gentlemen go to it explicitly and in a manly way, and not in the narrow, mysterious, crooked, mischievous manner which they were pursuing! Mr. Powys read an extract from a pamphlet in this part of his speech, which he thought applicable to his argument, and then called on the Committee not to set up that paralytical power which they were about to establish. He considered the resolution as likely to excite feuds and animosities not only in the kingdom, but in the royal family, and to arm the mother against the son. Was that the way to add energy, to add vigour to the government? He reminded Mr. Pitt that he had formerly fought under his banners, and fought with success, when he conceived that, in order to preserve a distant branch of the government, an attempt was made to introduce a fourth estate. He considered the present system to be equally destructive to the constitution; and as he did not want to parcel out the prerogatives of the Crown, at the will of an individual, he would move an amendment. The right hon. gentleman was pleased to contend that he went by precedent; but the precedents which he had quoted told against him. Mr. Powys declared that he would establish himself upon precedent, upon the statutes themselves. The extent of power to be given now ought to be the same as that given in former statutes; and therefore he would trouble the House with the words of those statutes. Mr. Powys accordingly referred to the statutes, and moved his amendment in these words: To leave out from the word "illness," in order to insert, "And preserving the constitution of Great Britain undisturbed, and the dignity and lustre of the Crown unimpaired, his royal highness the Prince of Wales be appointed, during the present indisposition of his Majesty, and no longer, in the name of the king, and in his stead, to exercise and administer, according to the laws and constitution of Great Britain, the regal power and government, under the style and title of regent of the kingdom, and to use, execute and perform all prerogatives, authorities, and acts of government, which might have been lawfully used, executed, and performed, by the regent and council of regency, constituted and appointed by an act of the 5th of his present Majesty, cap 27."

Lord *North* said, that it was rather unusual for any member to begin with complaining of any resolutions, which had on a former day received the sanction of the House; and yet on the present occasion he felt a renewal of those apprehensions which he had stated himself to labour under, when, instead of proceeding to perform that single act of duty which the necessity of the case alone required at their hands, they had taken a course at once novel and dangerous, by establishing a precedent unknown before, of appointing a shadow, a fiction of law, instead of a real, useful, and rational representative of the third estate. Did it become the House of Commons, in a moment like that, when the royal negative, which the constitution had vested in his Majesty, was suspended, to avail themselves of the temporary incapacity of the King, and to attack all the authorities of the Crown, while it remained without a

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shield. When he talked of the Crown and of the King, he meant to speak of both in that sense, and in that character, which the hon. gentleman (Mr. Powys) had distinctly defined. The measures they were now called upon to adopt, contradicted that wise maxim of the constitution, that the king never dies. The king in his individual and natural capacity, it was true, suffered a demise, but the political capacity of the Crown was, both by law and the constitution, always considered as whole and entire. And why was this maxim established, but for a plain and obvious reason—to guard against and prevent an interregnum of imperial power. Ministers had contrived to produce that evil, which the constitution had so wisely and so cautiously guarded against, and they had devised the means of the political death of the Crown. Let them ask themselves, what constituted the kingly office? It consisted of duties and functions on the one hand, and of rights and prerogatives on the other; neither of them was granted to the king for his personal gratification and advantage, but were wisely vested in the Crown, as the third estate, for the good and security of the whole. Separate these public duties and prerogatives, suspend some, and parcel out others, and there existed that fatal interregnum which the constitution had forbidden. The Chancellor of the Exchequer had repeatedly told them, in the course of his speech, that they were to expect that his Majesty's melancholy disorder would prove but short, and that they were to consider themselves as providing for only a temporary suspension of the personal exercise of the royal authority; but let the Committee recollect, that notwithstanding the long and repeated examinations which his Majesty's physicians had undergone; notwithstanding those examinations had obviously been governed by the general and anxious wishes of the Committee, that they might learn when they might expect the happy moment of his Majesty's restoration to the full exercise of his authority, it had not been in the power of any one consulted, to give an idea of the probable time when his Majesty's recovery would take place. The right hon. gentleman himself had admitted, that unless his Majesty's recovery did take place, the resolutions which he had proposed would not be proper. Undoubtedly they would not. If it were but for a moment, every man, who was a friend to the constitution, must submit to such resolutions with regret, because they went immediately to affect the fundamental principles of the constitution. But, if it were admitted, that the resolutions would not be proper, in case that his Majesty's recovery did not take place, he must beg leave to deny that they were proper at all, under any circumstances, or in any possible case. Nor were they, in his mind, more necessary than they were proper. They were in themselves pernicious, and must necessarily lead to the utmost confusion. The House had resolved, that it was their right and duty to provide the means of supplying the defect in the personal exercise of the royal authority. What could that signify more than that they were to provide for the interval of his Majesty's illness, by not suffering any advantage to be taken to despoil the Crown of its just and constitutional rights? It was their duty to take care, that when his Majesty should be capable of re-assuming the royal functions, he should find them in as good a state as he left them in; undiminished, whole, and entire. Would any man contend, that this would be the case, if the resolutions which the right hon. gentleman had proposed, should be adopted by the Committee? Indisputably it would not, because the object of the resolutions was to appoint a person to the regal office, and to separate from that office the royal authority.

Upon this occasion he must beg leave to ask, what was the nature and extent of the limitations and restrictions specified in those resolutions, containing the detail of the general idea stated in the preliminary resolution then under the consideration of the Committee? By the first of those resolutions, the Regent was to be restrained from making peers: a new and unconstitutional limitation of the royal authority; The right hon. gentleman had relied much on precedents and their analogy, when he had persuaded the House that it was necessary to declare it to be their right to provide for supplying the deficiency occasioned by the suspension of the royal authority. Could the right hon, gentleman produce any precedent, which, by the most distant analogy, or the most forced construction, could be brought to countenance the restraining the Regent from making peers? For his own part, he knew of no moment in which such a power had lain dormant in this country. The right hon. gentleman had affirmed, that this power could not be necessary to the Re-

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gent. The King possessed this power, because it was necessary, and the right hon. gentleman had described it as the inherent right of the Crown. It was nevertheless, a public right, and not a personal individual right. It belonged to the kingly office as one of the royal prerogatives, all of which were supposed to be necessary to the support of government, and the good of the people governed. If the power of making peers was necessary to a king, why was it not necessary in a regent? In kings this power had been considered as the fountain of honour, and had been exercised often to the general satisfaction of the people as the reward of merit, and the incentive to public virtue. Why, then, should it be denied the Regent? His Majesty's ill health, and the uncertainty of his recovery, would of themselves make the government of a regent more precarious, more instable, than that of the Crown, which, from its nature, was permanent, and consequently more firm, more vigorous, and more effectual. Because, then, the government of a regent was naturally and unavoidably weaker, than the government of a king, was it to be made weaker still, by the imposition of unnecessary limitations and restrictions, tending to cramp, to embarrass, and enfeeble its powers and authority? The right hon. gentleman had said that a time might come, when it would probably be necessary to reconsider the business, and then, if his Majesty's recovery did not take place, they might remove the restrictions now imposed on the Regent, and lessen the limitations, or take them away altogether. That parliament could revise, explain, and amend its own acts, was a truth by no means new to that House; but why should the House create a necessity for such revision, explanation, and amendment, when the creating of it would establish a dangerous precedent, and the avoiding it could lead to no sort of difficulty or inconvenience? The last Peerage Bill that was agitated, was in the reign of George 1; at that time there were many men who deserved well of their country, and were fairly entitled to any honours in the power of the Crown to bestow; but George 1 was then old and infirm; the ministry, though a powerful party, composed of men of high character, great abilities, and great authority in the country, were imagined not to be much in the good graces of the Prince of Wales, the heir apparent to the throne. They had reason to expect, therefore, that when the prince came to the crown, he would create so many new peers, that their party would be outnumbered in the House of Lords; and thus they would be shut out from a reasonable chance of returning to power, in case it should, on the accession of the new king, be taken out of their hands. With a view to avert this evil, they proposed to limit the peers to be created in future, and to restrain the Crown from ennobling more than a certain number of commoners, from time to time. He did not mean to assert that these motives were the true motives, but they were those attributed to the ministry at the time. The bill in question was so clearly calculated to increase the importance of the peerage, that it was greedily grasped at by the lords of all parties, although they plainly saw the object for which it had been introduced. The peers in opposition overlooked the political distinctions of the times, and were glad to lose sight of party in the promotion of a measure, the necessary end and effect of which must have been the exaltation of their own rank and authority in the constitution. The Lords said: "this bill may grow out of the secret policy of ministers; it may be a job for them; but it is so plainly a job for us, that it is our interest to promote and embrace it," and thence the marquis of Buckingham, at that time in opposition, gladly undertook to introduce the bill, and gave it all the support of his influence and abilities. It was carried, in consequence, by a high hand in the House of Lords; but when the bill came down to the Commons, it met with a different reception. The House felt the insult to themselves, and spurned at a bill of which the manifest tendency was to set the other House above its balance in the constitution. The bill had been rejected in that House by a majority of 269; a number which, lord North observed, could not easily be erased from his memory. The House of Commons of that day considered the bill as an aristocratic measure, and they rejected it with indignation. In the present case it might be ten, it might be fifteen years; no person could determine the length of time before the regency would be replaced by the government of a king. It therefore behoved the House to proceed with the utmost circumspection. Were they sure, that when it should be thought necessary to take away this restriction, amongst others, such a

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procedure would receive the ready concurrence of the other House? That House could do no act legislatively without the concurrence of the House of Lords; and when the time should come, that the House might find it proper to take off the restriction in question, and to declare that they thought it no longer necessary, the House of Lords might possibly answer: "We beg your pardon, we think it is. We are too wise to part with what you were so unwise as not to withhold. We will not submit to be governed by fancies of the House of Commons; we are aware of your capricious and changeable temper, but we do not move "arbitrio popularis aurse." You once thought these restrictions necessary; we think them necessary still; we are aware of the value of what we have obtained, and it rests with us to judge, when it will be most fit to return it." Let gentlemen, therefore, seriously consider of the future difficulty which they might create by abridging the royal prerogative in so essential a particular, and if they were determined to impose restrictions on the Regent, let them at least limit its duration, and put it out of the power of the other House to continue it in force, after the time when it might appear no longer necessary to remain. Perhaps it might be expedient to date the existence of the restriction from the 16th of January, and limit its duration to any future day, which to the wisdom of the Committee might seem proper.

As to the third proposition for preventing the Regent from granting patent places, offices for life, in reversion, &c. he must oppose it in the terms in which the right hon. gentleman had conceived it. These sort of places, like the honours of the peerage, were the proper rewards of merit, and such as the Regent, generally speaking, ought not to be restrained from granting. If any number of offices, which before the first of November, were only offices held during pleasure, should, by the Regent, be converted into offices for life, or in reversion, he would admit that such a power ought not to be exercised, because it would prove a great diminution of the power of the Crown, which should be secured from falling into a worse state than it experienced before his Majesty's illness commenced, and no principle could establish that without contradicting the constitution. But no man could say that the same objection might be applied to the power of making peers, because, if the Regent were allowed to exercise that prerogative, it would not in the smallest degree diminish the power of his Majesty to exercise the same authority, when capable of re-assuming the reins of government.—As to the fourth resolution, if he understood it rightly, it went only to restrain the Regent from interfering with such acquisitions of wealth or estate, as from savings, or by any other means his Majesty might have made personally, since his accession to the throne. With regard to those, undoubtedly, the Regent ought not to meddle with them; but the real property of the Crown was, in his consideration, the property of the public lodged in the hands of the King for the public benefit. All property of the other description his Majesty might devise and dispose of by will, in like manner as any private gentleman could dispose of his unentailed private fortune.

Most undoubtedly the last resolution was well worthy a serious and deliberate discussion, because it went to the disposal of a number of places in his Majesty's household, amounting to a vast deal of money out of the Civil List. For the disposal of places of this description to be submitted to the trust of any other person than the King himself, or the immediate representative of the Crown, or for the exercise of so great a power deducible out of the Civil List revenues to be separated from the other regal authorities, appeared to him to be an unconstitutional, unprecedented, and monstrous proposition. The right hon. gentleman had said, that a great part of the expenses of his Majesty's household was under the pay or control of the Master of the Horse, the Lord Chamberlain, and the Lord Steward, and that therefore their remaining undisturbed in office was actually necessary to the regularity of the royal household during the continuance of his Majesty's illness, and that his Majesty's feelings might be much hurt, when, upon his recovery, he should find that, during his unfortunate infirmity, his subjects had changed his household, and removed his domestics. For his part, lord North added, he did not wish to deprive his Majesty of his property, nor of his domestics; but, could no other way be devised, by which proper attention might be paid to the King, without this vast patronage being vested in any other hands than those of the Regent? The right hon. gentleman had declared, that he found it a difficult thing to settle the

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interior of his Majesty's household, without giving the control of it to the high and respectable character, to whom the care of the royal person was undoubtedly, in his opinion, to be entrusted; and yet the right hon. gentleman had found a way for the two Houses of parliament to pass a law without the King, or a third estate; and that he must take leave to say was a much more difficult point to carry into effect. The right hon. gentleman had also proposed to make a regent, and to expect from him the duty and responsibility of a king, while he withheld from him the unrestrained exercise of the royal authority. Was it possible, then, for the right hon. gentleman to feel any embarrassment in the disposal of the Grooms of the Bedchamber? This reminded him of the extraordinary powers of an extraordinary order of beings, of whom they had all heard when they were young. He alluded to witches, and the potent faculties with which they were considered as endued. They were supposed to be capable of riding through the air on broomsticks, of blasting the most fertile fields, of destroying corn and cattle, and of persecuting their enemies and killing people at a distance by a thousand ways, and yet, great and preternatural as the power of these witches was pretended to be, he had been told, when a boy, that all their efforts were vain, and all their arts defeated, by the simple circumstance of two straws being put across each other. Do this, and the power of the witch was at an end! Could not, therefore, the right hon. gentleman get over his difficulty? Could he pass laws without a third estate? could he form a pageant, and invest it with the royal authority? could he appoint a regent and despoil him of regal power; could he make a king and no king, and yet was the provision for dispensing with the patronage of appointing the grooms of the bedchamber so arduous and so insurmountable, that his invention, his power, his ingenuity, all left him, and he was forced to confess himself incapable? Yet, surely, if the right hon. gentleman would deem it worthy his endeavours, he might easily surmount this lesser difficulty, after having risen superior to others, which in his humble opinion, appeared to have been infinitely more formidable. The right hon. gentleman had told them, that the lords of the bedchamber were formerly intimately connected with the interior of the king's household, and, in the strict sense of the words, domestics of the sovereign. This might have been the case in George 2's time; but they all knew, that of late years, the lords of the bedchamber had been otherwise employed. They, as well as the higher household officers, were the political servants of the Crown, not appointed for the domestic comfort of the Sovereign, but for his public pomp, and annexed to his retinue, as a part of the pageantry of the Crown. The right hon. gentleman had assured them, that the patronage to be withheld from the Regent under this resolution would not be abused, and had desired that his profession, that he would not take part in any factious opposition to the government of the regency, might be considered as the test of his future conduct. That the exalted personage, in whose hands this enormous patronage was to be nominally lodged, would not abuse it; lord North declared that he was willing to believe; but when he considered, that there was to be a council to advise her Majesty, he was not quite sure that the advice given would always be pure and free from the influence of a spirit of factious opposition. For his own part, he did not possess that nice gift of sight by which he could tell at the first view of a person's countenance the sincerity of his intentions; but though he had lost his sight he had not lost his sense of hearing. He had heard the right hon. gentleman's profession of what he desired to be considered as the test of his future conduct; but the Committee well knew that it was not parliamentary to rely on the professions of an individual; that when a great public measure was under consideration, they ought to govern themselves by public principles, and not by personal confidence. Undoubtedly it was reprehensible to withhold so great a part of the prerogative of the Crown from the person who was the best entitled to expect to be entrusted with the exercise of the royal authority during the incapacity of the sovereign. The right hon. gentleman had denied that there existed a right in the heir apparent to assume the exercise of the royal authority: but, they had all heard, it was admitted to be such an irresistible claim, as could not be rejected without injustice and without violence. What was it, then, to which his Royal Highness had such an irresistible claim, that he could not be deprived of but upon reasons strong enough to justify a bill of exclusion? It could be no new constitution; it was a claim, he

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supposed to something which had existed before. It was not a right to sustain a burthen, to submit to the performance of all the duties, without enjoying all the prerogatives of a king. No restrictions ought, therefore, to be imposed on the Regent; but if any restrictions were adopted, they ought to be dated from the 16th of January, and confined to a limited duration. He conjured the Committee to have recourse to their constitutional ideas; and if, during the temporary suspension of the King's personal capacity to exercise the royal authority, it was their duty to provide for that defect in the constitution, let them be governed by the necessity of the case, and not exceed its limits. Let them provide, that the people should have a good government: and having proceeded thus far, they would enjoy the consciousness of executing the whole of what they owed to themselves, to the people, and to so good a sovereign as his Majesty: but, to venture farther would prove a most dangerous experiment! During the continuance of that melancholy malady with which the King was afflicted, and the bare recollection of which made every man's heart bleed, the people had a right to expect that they should be well governed. Let it not be said, then, for fear the Regent should change a ministry, they were willing to change the constitution. Let them not be captivated with every light and fantastical scheme of political speculatists, but adhere to what they knew from experience to be solid and secure. If they adopted the project suggested by the right hon. gentleman, they would act contrary to the practice of their ancestors, and contrary to the principles of the constitution. There was no institution of their ancestors, which might not be changed on the suggestion of wanton caprice and loose fancy, if they once gave way, upon so great a point. If they were prevailed on, there was nothing safe, since, upon the same principle that they were now called upon to sacrifice what had been for above a century found agreeable to the wishes and taste of the people, they might be desired to alter every institution, the most useful and the most salutary. Let them learn to dread the change of their constitution, from the mischiefs which had followed in consequence of such a circumstance in other countries. Spain owed the loss of her constitution to the complaisance of the Cortes. Had not their fatal pliability taken place, Spain would have remained free. The foundation was also laid for the ruin of the liberties of Rome by innovating upon her constitution. They all knew that Rome owed her liberty and greatness to being under the government of persons annually elected to office, and her victories to short commands. When war was made, or peace proclaimed in the best times of the commonwealth, it was done by the consul or pro-consul, who headed the Roman armies, and conducted them to the field; but, when great men came in fashion, they did all themselves; thus, when Sertorious was in rebellion against the republic in Spain, and Mithridates in arms in Asia, the Mediterranean infested with pirates, and Rome threatened with a scarcity of corn, Lucullus was recalled, and Pompey invested with the command, and with the conduct of the war. During that period, Pompey was all in all with the Roman people; and Pompey, it was true, subdued Sertorius, reduced Mithridates, scattered the pirates, and brought grain to Rome; but, by the commonwealth's departure from the established principles of the Roman constitution, the constitution of Rome was undermined. Short commands were abolished, Cæsar was put at the head of the legions for five years, and his commands were prolonged for five years more. Cæsar was, undoubtedly a general; but this relaxation of the laws in his favour, and similar acts of complaisance to other great men, put an end to the liberties of the republic, and threw Rome under the dominion of a master.—Lord North concluded with declaring, that he should tremble for his country if the resolutions were adopted. If the House thought that any advantage could repay the violation of the constitution, and acted upon that principle, that principle would prove their ruin.—He should not himself probably live to see the fatal effects which might follow, but his posterity would, and there were gentlemen, who sat there, that might one day repent, in the bitterness of affliction, the wreck of public freedom, and curse the hour in which they had suffered the bulwark of the constitution to be assaulted with such illegal violence.

Viscount *Belgrave* contended, that to vest all the royal prerogatives in the Regent, would be to trust too much power in one person's hands, during the life-time of the sovereign. With respect to the report then upon the table, and the competition that had been set up between the skill of

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Dr. Warren and Dr. Willis he would not follow the example of others, and say, that Dr. Warren was an improper or a dangerous man to be about his Majesty, because he thought Dr. Willis was not an improper or dangerous person to be so employed. He would not take upon him to decide upon the comparative merits of the physicians; but he was persuaded, that if any unprejudiced man was carefully to peruse the report, he would pronounce the result of it to be that the probability of his Majesty's recovery was increased since the preceding examination of the physicians who attended him. It was needless for him to observe that the Queen was universally beloved and adored, and that the whole of her conduct during his Majesty's illness had been so exemplarily tender and affectionate, that it must increase the veneration and regard which all ranks of people entertained for so excellent a personage. The political integrity of the King's character he should conceive all were ready to admit; and if that were taken away, or considered as suspended the constitution would be highly endangered. He urged the propriety of securing the rights of the Crown, and not trusting them to the hazard of events. For his own part, he entertained the most sincere esteem for the Prince of Wales, and could unfeignedly declare, that he had an implicit confidence in the virtues of his royal highness; but, in a case like the present, when they were establishing a precedent, and providing an example, as it were, for posterity, they could not proceed with too much caution. There might hereafter exist an heir apparent, who, equally deaf to the ties of nature, and regardless of the interests of the people, might connect himself with a desperate faction, and forgetting what was due to his own character and his exalted station, afford the nation a melancholy prospect of what they were to expect after his entrance into power. Heaven forbid, that such an heir apparent should exist! but as the transactions of the present times would doubtless form an important æra in our history, it was their duty to guard against the possible danger of the Regent being surrounded by ill-advisers, and his mind warped by the councils of an unprincipled faction, who had once already made a violent attack on the constitution of their country. In conclusion, lord Belgrave observed, that when the just and lawful prerogatives of the Crown were in danger his right hon. friend, the Chancellor of the Exchequer had manfully stood forth to defend them; and on the recent occasion of the personal exercise of the royal authority being suspended, when the liberties of the people were threatened by a declaration of a right in the heir apparent to assume the exercise of the royal authority—a right which they had resolved could exist constitutionally only in the person to whom that and the other House of parliament should delegate it—his right hon. friend had with equal spirit denied the existence of the right asserted to exist in the heir apparent, and after putting the assertion and denial at issue, had obtained a parliamentary declaration in favour of the people. His Lordship repeated his profession of love and respect for the Prince of Wales, and for the constitution of the country; and after a quotation from the orations of Demosthenes, concluded with declaring, that he should vote for the resolutions, as he highly approved of the system which they tended to establish.

Mr. *Sheridan* began a pointed, witty, and argumentative speech, with declaring, that he meant not to copy the example of the noble Lord; he rose neither to congratulate the majority, nor condole with the minority, on any former vote of that House, which the noble lord had extolled as an act of spirit. If the assertion were true, and the fact was, that the vote the House had last come to, had been an act of spirit, he hoped they would now proceed to an act of justice. He declared he meant not, like the noble lord, to treat the House with a quotation, whether taken from any Greek, Roman, or English writer; neither did he mean to show his partiality to his friends by any elaborate encomium on their merits. The noble lord, however, had misapplied the line he had quoted from Demosthenes, who had meant to reproach the Athenians for wasting that time, which they should have spent in effectually opposing their enemy, in fruitless inquiries and examinations of physicians, from the wish of learning an unfavourable opinion of his health. He hoped that was not a very applicable case on the present occasion, and that the inquiries had not been carried on with that view. He would not, he said, go much at large into the report then upon the table, though he could not pass by the representations the right hon. gentleman had made of the answers and opi-

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nions of the physicians. The right hon. gentleman had said, that the physicians all agreed that his Majesty's cure was probable, that he was better, and that there were, more or less, signs, of his recovery. That, he positively denied; the right hon. gentleman had not quoted the report, and he would not do it; but he asserted, that the physicians did not all of them state that there were signs of his Majesty's recovery. Dr. Willis, indeed, did state it, and there was something of the same sort advanced by sir Lucas Pepys; but the other physicians affirmed the express contrary to be their opinion. Mr. Sheridan took notice of the manner in which Mr. Pitt had spoken of Dr. Warren, and charged him with having indirectly endeavoured to attack the doctor's character; the noble lord who spoke last, had also followed the right hon. gentleman's example, and in a way peculiarly injurious, ventured upon insinuations to the prejudice of Dr. Warren. On occasions like the present, Mr. Sheridan said, it was ridiculous to stand upon idle ceremonies and trifling etiquettes; he would speak out and say, that if there was a witness who appeared to give prevaricating and evasive answers, that witness was Dr. Willis. In order to see whether he was right or wrong in this assertion, let gentlemen look fairly at the reports, and then decide. The right hon. gentleman, when talking of the endeavours to puzzle and mislead Dr. Willis, and perplex the simplicity and plainness of his nature, had looked towards him as if he meant to allude to his cross-examination of that physician in the Committee above stairs. He knew not that it was either parliamentary or proper to make what passed in select committees above stairs, the subject of allusion in that House; but, if the minutes of the Committee were before the House, they would see that he had cross-examined Dr. Willis, with a view to put his credibility to the test, in consequence of a learned friend of the right hon. gentleman, then in his place, having cross-examined Dr. Warren, expressly, as he had himself declared, for the purpose of impeaching the doctor's credibility; adverting to what he mentioned as the different answers given by Dr. Willis at different times, he charged them with various contradictions. When he heard Dr. Willis at one time asserting, that the accounts sent to St. James's did not convey a true state of his Majesty's health, but were considered by him as prescriptions for the public to swallow, and when, at another, he heard him admit them to be statements of facts, and found, from the examination of the other physicians, that no such conversation had passed, as Dr. Willis had stated to have passed, was he not necessarily staggered, and inclined to think Dr. Willis a loose and random speaker? When he heard Dr. Willis attribute his Majesty's illness to seven-and-twenty years of extreme study, abstinence, and labour, and declare that his Majesty was recovering, assigning as a reason, that the physic which he had that day given him, had produced the desired effect, what must he think of Dr. Willis, when he heard him assert, that his physic could in one day overcome the effects of seven-and-twenty years hard exercise, seven-and-twenty years study, and seven-and-twenty years abstinence, it was impossible for him to maintain that gravity which the subject demanded. Such assertions reminded him of those nostrums, which were to cure this and that malady, and also disappointments in love and long sea voyages. He did not impute Dr. Willis's answers to any intention to deceive, but when he heard him roundly declare what every other of his Majesty's physicians pronounced it impossible to speak to, he must assert that Dr. Willis was a very hasty decider, and a random speaker.

Mr. Sheridan now observed, that he must beg leave to investigate the other parts of the right hon. gentleman's speech, and declare that he did not wonder that in speaking of one person, whom the right hon. gentleman had thought fit to introduce, he chose to appeal to the feelings, rather than to the judgment of the House. The manner in which the right hon. gentleman had mentioned her Majesty, appeared to him to be with a design to challenge and provoke a discussion of the conduct of the Queen; but he trusted, whatever had been the right hon. gentleman's motive, it would prove totally unsuccessful. The dutiful conduct, and domestic virtues of that royal person never had been called in question; and, therefore, he hoped that they should avoid the discussion, as a matter equally unnecessary and indecent; and when the right hon. gentleman talked of delicacy on the subject, he wished him to reflect on his own conduct in the Committee. Those who would give responsibility to the Queen, those who would take

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her out of that private and domestic station, in which she had conducted herself so amiably and irreproachably, were the persons who manifested a want of delicacy, and a want of attention to the character and comfort of the royal person in question. With regard to the feeble preference to the Prince's claim, which the right hon. gentleman had admitted, it appeared from the right hon. gentleman's conduct, as if his concurrence with it was extorted from him by the opinion of the public. The plain question was, what were the motives which induced the right hon. gentleman to refuse the full powers of the Crown to the person who was to act as its representative? What, but an intention to tye up the hands of ministers, at a time when they would stand the most in need of unrestrained authority. It would not, he believed, be denied, that a government by a Regent must necessarily prove more weak than a government carried on by the Crown itself, and that, consequently, it required every possible degree of additional aid and assistance; but, by the line proposed, it was signified to all foreign powers, that they were divided among themselves, and that there did not exist that unanimity so necessary at that crisis. The right hon. gentleman had resorted to precedents in support of his arguments of that day, but the whole line of precedents he meant to follow, made directly against the inference which it was his design to draw from it. By the mode the right hon. gentleman had adopted, the balance of the Crown was destroyed, and as far as the balance of the constitution was concerned, that was destroyed also. Did the Regency bills referred to by the right hon. gentleman, proceed upon the supposition that the minor could never be of age? Most certainly they did not; nor were the powers of the prerogative withheld. They were all given, not into the hands of one person indeed, but into the hands of many. Mr. Sheridan stated, that at that time (in the reign of George 2,) the Prince of Wales was thirteen, and he was by the Regency bill declared to be of full age at eighteen, and the king was then alive, and in good health. He reasoned upon these facts, to show that the utmost time the Prince could in that case have been a minor, was five years, and that the probability was, that he would not have remained so, when he came to the crown, more than two or three years. Towards the latter end of the right hon. gentleman's speech the true motive of the right hon. gentleman's conduct had manifested itself; he had on a former day adverted to it, but not upon that day, except in the part of his speech to which he then alluded; and that was his belief, that the Regent would change the administration, and that the government would fall into the hands of those, whom the right hon. gentleman had dared to assert, had been convicted of a confederacy to overturn the constitution. That was the real spring of all the right hon. gentleman's measures respecting the regency. Had intentions been entertained of keeping the present ministers, the limitations, he verily believed, would never have been heard of. The whole of the right hon. gentleman's conduct was confessedly governed by party considerations, and by the impulse of his own personal ambition. The right hon. gentleman talked of the evil advisers whom the Regent might possibly have about him: but was there, in fact, any real cause to dread such a circumstance? If that were the case, might he not ask, was there not vigour enough left in that House to crush any attempts of abuse of authority, to call bad ministers to a severe account, and to address the Regent to remove them from his councils? The right hon. gentleman had more than once wantonly attacked that side of the House, as containing a political party. As for himself, he made no scruple to declare, that he thought it the glory and honour of his life to belong to that party. He who knew the character of that party, knew that it was an honour any man might covet to belong to it. Was it a disgrace to have been formed under the marquis of Rockingham, and under his banners to have combatted on behalf of the people with success? Was it a disgrace to be connected with the duke of Portland, a nobleman who, swayed by no mean motives of interest, nor influenced by any ambitious designs to grasp at power, nor with a view to any other purpose than the welfare of the country, dedicated his mornings unremittingly to the promotion of the public good? Mr. Sheridan said, that he could not advert to his right hon. friend (Mr. Fox) without declaring, that it was the characteristic distinction of his heart to compel the most submissive devotion of mind and affection from all those who came under the observation of it, and force them by the most powerful and amiable of all influence, to become the inseparable associates of his

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fortune. With respect to his talents, he would not speak of them; they would derive no support from any man's attestation, nor from the most sanguine panegyric of the most enlightened of his friends. This much he would only observe, with regard to the abilities of his right hon. friend, that it was the utmost effort of any other man's talents, and the best proof of their existence, that he was able to understand the extent, and comprehend the superiority, of those of his right hon. friend. It was the pride and glory of his life to enjoy the happiness and honour of his friendship; and he desired to be told whether the duke of Portland and Mr. Fox, were the less worthy of the confidence of their country, or more unfit to become ministers, because an arrogant individual chose presumptuously to load them with calumny? Were he an independant man, standing aloof from party, and wholly unconnected with it, he could not with patience hear the right hon. gentleman's insulting language; but as a party man, boasting himself to be one, how did the right hon. gentleman imagine he should receive his reflections, but with that scorn and disdain which became a man conscious of the worth of those with whom he was connected? He must beg leave to remind the right hon. gentleman, that after this confederacy, whom he had so grossly calumniated, had, among other of their iniquitous proceedings, passed their India Bill, and after they had formed their coalition, that right hon. gentleman was ready enough to have joined their confederacy, and a treaty, as the House well knew, had been then set on foot, but the negociation was not concluded. He declared, that he did not believe that the right hon. gentleman was in earnest; he would not injure him so much as to believe him to be in earnest, when he talked of the damages to be dreaded from the evil advisers of the Regent, as to the abuse of the exercise of the powers of creating peers. Mr. Sheridan commented on Mr. Pitt's argument on the subject of creating Peers, and declared that he had never before heard that the commerce of the country had swelled to such a pitch, that therefore it became necessary to add to the number of the peerage, and that another reason was, the prevention of a faction in the House of Lords against the Crown. The right hon. gentleman had made no less than forty-eight peers, during the five years of his administration; and yet he had never heard of any faction having been likely to take place in that branch of the legislature.

Mr. Sheridan next remarked, that he could not listen in silence to the expressed desire of the right hon. gentleman to have considered as a test of his future conduct, and not as a profession, his declaration, that he would not oppose the measures of his successors in office. Upon this occasion, he trusted that the House would not lose sight of the manner in which that test had been worded, namely, that the right hon. gentleman would not oppose any just or good measures of the new ministry, which measures were hereafter to be discussed. The declaration called to his mind a similar one of the right hon. gentleman on a former occasion, to which he had not adhered. He declared, he believed the right hon. gentleman was sincere in his intention, though he had not what Dr. Willis had affirmed he possessed, the gift of seeing the hearts, by looking at men's countenances. He remembered that the doctor at first told the Committee, "That he could thus see the heart of any man, whether he was sick or not;" a declaration that had appeared particularly to have alarmed the right hon. gentleman; yet, putting all this out of the question, it was not parliamentary to trust to any gentleman's professions, especially where the grounds of faithfully adhering to those professions, was expressly left hereafter to be disputed. He reprobated the idea of reserving the patronage of the Royal household, and mentioned the right hon. gentleman's having charged his right hon. friend, when on a former occasion he quitted office, with having left a fortress behind him. The charge was true; he admitted that his right hon. friend had done so, but then, like a coarse clumsy workman, he had built his plan in open day, and retired with his friends, who served without pay, though their services had been long continued. Not so the right hon. gentleman over the way; like a more crafty mason, he had collected his materials with greater caution, and worked them up with abundantly more art. Perhaps he had taken the advice of the noble duke, famous for fortifications, and with the aid of that able engineer, had provided a corps of royal military artificers, and thrown up impregnable ramparts to secure himself and his garrison. Upon this occasion, the King's arms doubtless might be seen flying as a banner on the top of

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this fortress, and powerful, indeed, must prove the effect of the right hon. gentleman's thundering eloquence from without, and the support of the royal artificers from within, against his political adversaries.—Mr. Sheridan reprobated the person, whoever it might be, that had advised her Majesty to lend her name to such a proposition as that which was then made to the Committee, and declared, that were the one ground of suspicion of the bad advisers of the Regent to be taken away, the right hon. gentleman could not be said to have produced a single argument in support of his system. He described the power that the ex-minister would derive from retaining the patronage of the King's household, and contended, that the pretext, that his Majesty's feelings would be shocked when he recovered and found his household changed, was ridiculous. The bad advisers of the Regent were to be allowed the power of making war, peace, treaties, and the exercise of various other important authorities. To talk, therefore, of his Majesty's feelings, when he should recover and find his household changed, was to suppose that he would be less shocked to learn, that the constitution of his country was changed, part of his dominions ceded to foreign potentates, and other essential and important calamities and disgraces entailed on his country; which was like a man, who having been entrusted with the care of a mansion house of a person, during his incapacity, should suffer it to go to ruin, and the winds of heaven to blow through almost every part of it, the enclosures to be broken down, the flocks of sheep to be shorn, and exposed to the storms, and all left to ruin and decay, except a few looking-glasses, and old worthless gilt lumber, that were locked up in an old-fashioned drawing room. Mr. Sheridan represented the ex-minister coming down to the House in state, with the cap of liberty on the end of a white staff, a retinue of black and white sticks attending him, and an army of beef-eaters (whom the Master of the Horse, the Lord Steward, and Lord Chamberlain, were to be employed in marshalling) to clear his way through the lobby. He said, that he had lately heard much of the political capacity of a king, but had never heard that the political capacity of a lord of the bedchamber was so inseparably connected with his body natural, that if the former were extinct, the latter could not without difficulty be found, when his Majesty should recover, and call back his household officers. He observed, that ministers were desirous of making it a condition with the Regent, that they were to have no claim upon him, provided the red book remained as it stood at present; let the Court Kalendar continue unaltered, and the Prince of Wales might be Regent. He again adverted to the minister's pretended regard for his Majesty's feelings, and asked the right hon. gentleman, whether he thought his Majesty would not be hurt, when, upon his returning reason, he should know in what manner his sons, the heir apparent and the duke of York, as well as the other royal dukes, had been treated by ministers, during his illness, especially after the gracious declarations which they had all heard of in another place. He observed, that the right hon. gentleman had admitted the restrictions to be evils, and had discussed them chiefly on the grounds of expediency; he combated them on that ground, and declared that he fully admitted the doctrine of the lawyers, that the political capacity of the monarch was whole and entire, but that he must contend they were acting in direct opposition to that principle, and to what had originally made it a principle in our constitution. He said, he had no occasion to reason upon the question, it was enough to state his arguments; they were so evident, that they needed only to be heard to be admitted as if they had been proved. Mr. Sheridan concluded with declaring, that when it should be known by the public, that the motive for such restrictions was no other than because the Prince was going to take into his service a different set of men from those now in office, they would despise and detest the cunning and the craft from whence so wretched a proceeding had originated.

Mr. *Grenville* [the Speaker] addressed the Committee nearly as follows:

Mr. Watson; I have not hitherto troubled the House in any of the debates connected with this important subject. And certainly, if this were any common question, arising in the usual course of Government, or relating to the ordinary and accustomed business of Parliament, I should have felt, that under the circumstances of that situation to which the partiality of the House has so recently called me, it would have been proper for me,

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however decided my opinion might be, rather to content myself with giving a silent vote, than to obtrude myself at this time upon the attention of the Committee. But I could not avoid feeling, that the nature of the present discussion is widely different from those which I have stated. It arises from no common occurrence, but from a situation awful and calamitous in itself, and which is rendered more arduous from the circumstance of its being nearly unprecedented in the history of our country. It relates to no ordinary business, but to the exercise of the most important right even of a British House of Commons, to the discharge of the most sacred trust that can be delegated even to the representatives of this great and free people. Our decision upon it involves every consideration that is most interesting to our feelings as honest and conscientious men; the present happiness and good government of our country; the security for the continuance of these blessings to ourselves; and the preservation of the dearest rights and interests of our posterity. Under these circumstances, the more I have considered this subject, and the more the delays which have recently occurred, have given me an opportunity of revolving it over and over again, anxiously and fearfully in my own mind, the more I am convinced that this is an occasion which calls for the avowal of every man's opinion: and that with respect to myself individually, the situation in which the House has done me the honour to place me, as it has not deprived me of the right, cannot therefore have discharged me from the duty of delivering my sentiments in this Committee, and upon this question. I shall, therefore, not trouble you with any farther preface, but proceed to state the opinion which I entertain with respect to the resolutions now proposed, and to explain the principles from which that opinion is derived, and the arguments on which it rests.

In all our deliberations on this subject, the first ground and foundation to be established is the nature of our present situation, as it results from that calamity, from which alone the necessity of these proceedings has arisen. It is unnecessary for that purpose to recapitulate the particulars which have appeared in the course of our inquiries. The recital would, I am sure, be painful not to my own feelings only, but also to the feelings of those to whom I speak. It is sufficient to say, that the result of those inquiries appears to have established three propositions. First, the actual inability of his Majesty to attend to the discharge of the several duties of his exalted station. Secondly, The probability of his Majesty's recovery; and Thirdly, The hope that this event, to which we all look with earnest and anxious expectation, is near at hand, and that his Majesty's disorder may probably not be of long duration. The two first of these propositions, are established by the direct and concurrent testimony given by all the physicians, as often as they have been examined. With respect to the third, we have, indeed, no such direct evidence, because these gentlemen have felt a natural reluctance to commit their characters by any precise opinion on such a point. But they have stated to us facts, from which we are enabled to draw the same conclusion with respect to the third question, which they have themselves established, as resulting from similar premises with respect to the second. They have told us, that the greater number of persons afflicted with this malady have recovered, and that they conclude from thence, that the probability is in favour of his Majesty's recovery. They have also told us, that the greater number have recovered within a short period, and that there are no particular symptoms in his Majesty's case which indicate a longer continuance of his disorder. Applying therefore these facts as stated by themselves, to their own mode of reasoning upon them, we are certainly warranted in drawing the same conclusion, that although the time of the recovery, as well as the recovery itself, is in the hands of God alone, yet, that as far as human experience has enabled us to judge, the duration of this calamity will probably not be extended to any distant period.

In this situation we have thought it necessary in the first instance to make an authentic and formal declaration of the circumstance of his Majesty's present inability to attend to public business. The next question which would naturally arise in the mind of every man was this; whether any provision had been made by the laws of our country for the case of such inability; or if not, in whom, by the spirit and principles of the constitution, the power was vested of providing for this new and unforeseen emergency? On this point the wisdom of Parliament has

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also spoken. It is therefore unnecessary now to refer to any former discussions in which it may have been involved; and certainly no argument of mine can add weight to the joint resolutions of the Lords and Commons of Great Britain on such a question. But in speaking for the first time upon this subject, I feel myself bound to declare, that I subscribe to those resolutions, not only with the submission which is due to an authoritative decision, but also with the most unqualified assent, with the most entire and perfect conviction. I conceive it to be among the first principles of the British Constitution, that no rights can be claimed or exercised as against the people, except those only which have been given by known and positive laws appearing on the face of our statute book, or proved by immemorial and uninterrupted usage. And that whatever power or authority has not been so conferred, still resides with the people at large, to be exercised by them through the channel of their lawful, full, and free representatives.

These preliminaries being thus established, the nature of our situation clearly ascertained, and our right and duty to provide for this occasion examined and asserted, with the general concurrence and approbation of our country, it now remains for us to enter upon the discharge of this great and important trust. There is, nevertheless, one question which may still arise, and which however it may appear to be precluded by the resolutions to which we have already agreed, does yet in one view of the subject come under our consideration this day, as a point entire and untouched. It is now declared, that this and the other House are alone to provide for any emergency of this nature, and are to make such provision for it as the exigency of the case itself shall appear to us to require. Are we then left at liberty in this particular case to act according to our own free discretion, adhering only to the rules of justice, and to the general principles of the constitution? or is our conduct in any degree prescribed, restrained, or limited, by the positive regulations of any existing law? An idea has been suggested to the public, that although the two Houses of Parliament constitute the only power competent to act on this occasion, yet that the sphere of their action is confined within a very narrow limit. That they can lawfully proceed no farther than to call some person to the exercise of the royal authority, and that whatever other provisions the existing circumstances may require, must be made hereafter with the consent of such person then representing the sovereign, and exercising at his own discretion the legislative functions of the Crown.

In support of this proposition, the statute of the 13th Charles 2, cap. 1, has been quoted, by which it is enacted, that any person who maintains that the two Houses of Parliament have any legislative authority without the King, shall incur all the penalties of a premunire.—This Act has been much referred to on the present occasion, both as declaratory of the ancient constitution, and as a law still in force, and consequently binding upon our conduct. It is therefore material to consider it with attention, because if its operation be really such as has been stated, every discussion of restrictions or limitations is in the present moment premature, and may hereafter become useless and nugatory.

For my own part, I have no scruple to confess that I am not at all moved by the authority of this statute, which I consider as wholly inapplicable to our present situation. No one can doubt that in the ordinary course of government, the principle of that Act is binding upon us, as the very foundation and corner stone of the British constitution. When the throne of these kingdoms is full, and when the King is personally capable of discharging the duties of his station, his express concurrence is unquestionably necessary to every act of legislative power. But on such an occasion as the present, it appears to me that the very same necessity by which we are compelled to act at all, extends itself to the manner in which we are to act, superseding both the letter of this statute, and the principle on which it is founded.

I certainly had the honour to concur entirely, not only with the general principle on which we have asserted the right of the two Houses to provide for this emergency, but also with the grounds on which we resolved that the proper mode of making such provision would be, by determining on the means by which the royal assent may be given in Parliament to a bill for establishing the regency. In every step which we take under our present circumstances, it is, in my opinion, extremely material, that we should adhere, as far as possible, to the established forms of that constitution, the very forms of

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which are dear to the hearts of Englishmen. And in this particular instance I conceive that the signification of the royal assent, by the Great Seal being that organ through which the authority of the Crown speaks in the most solemn and authentic manner, is not a point of form only, but follows as a necessary consequence from some of the most important principles of the constitution, which could not be neglected without great and manifest danger. But looking to the substance of the duty which we are now called to perform, I can have no difficulty, to declare explicitly that in providing for this emergency, I conceive that the two Houses of Parliament must in reality act in a legislative capacity in so far, and in so far only, as the necessity of the case requires: that it would be idle and nugatory of us, in the situation in which we now stand, to be afraid of words, or not to look to the true sense and meaning of those measures which we are obliged to take; and that no distinction can on any just principle be maintained between acts of legislation, properly so called, and those proceedings which have always been adopted, in cases of a necessity at all similar to the present.

If indeed, there were any force in the objection which has thus been raised, it must apply equally to every step that can be taken, and the only inference that could be drawn from it, would be, that we were now in a situation for which no remedy could by any possibility be provided. We have already declared that we acknowledge no right existing in any person, however exalted his rank may be, to act in this instance on the King's behalf, except under the authority of Parliament. And if it be true, that no act which is substantially and really of a legislative nature can be performed, even in such a case as the present, by the Lords and Commons of Great Britain alone, it is impossible that we can cure this defect by appointing some person, who, deriving his authority from us, shall exercise the royal functions in the place of the Sovereign. For whatever form we may adopt, would it not, in truth, be directly and plainly an act of legislation, to declare that the force of laws shall henceforth be given, and the obedience of the subject be duly paid, not to acts of parliament passed by King, Lords, and Commons, but to bills passed by the two Houses and assented to by a regent, having no authority to give such assent except what he derives from our proceedings? In any case, therefore, this statute, if it applies at all to the present circumstances, must prevent the possibility of any legal provision being made for this situation.—Whether we attempt by one act of legislation to provide for this emergency by ourselves, without the personal intervention of the Sovereign, or whether by another act of legislation we authorize some person to supply the place of the King, and to proceed, in concurrence with us, the statute is equally opposed as a bar to our proceedings, and no alternative remains, but that of an immediate and total dissolution of the government.

On this ground alone I should contend that such a principle of law cannot exist as applicable to these circumstances. And I should urge in support of this position the opinions of those writers whose names are the first in legal weight and authority—particularly that of sir William Blackstone; who tells us expressly, in arguing on a point immediately connected with this subject, that "the necessity of the case supersedes all law."

But I must also desire that this question may be examined upon the example and practice of our ancestors in two distinguished instances; the one occurring at the very period of passing this statute which I have before referred to; the other within no very long term of years subsequent to it. At the Restoration, the first step which was taken for re-establishing the British constitution was to declare by a solemn resolution, that the only legal government of these kingdoms resided in the King, Lords, and Commons. Yet, immediately after this declaration had been made by both Houses, and after they had recognised their true and lawful sovereign, they proceeded in his absence to the exercise of several functions both of legislative and of executive government; not certainly as intending to supersede the authority of their king, whom they had so recently acknowledged; but because they felt it their duty, both to him and to their country, to perform whatever acts were necessary to prepare the way for his return. Such was the conduct of the very same Houses of Parliament who, within a few months afterwards, passed, in concurrence with the King, the act in question, declaratory of a principle which is now alleged as precluding us from the free consideration of the measures neces-

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sary in our present situation. I cannot but think that we shall best expound this law by adhering to the construction of those by whom it was made; and that we are at liberty to exercise, as they did, our best discretion and judgment in the behalf of our country, under the circumstances of a necessity, at least as strong as that under which they acted.

At the memorable æra of the Revolution, this statute was still in full force and vigour, not considered as an obsolete law, but as one passed not many years before, and founded on the experience of misfortunes still fresh in the recollection of the nation. But if the Convention Parliament had then admitted its operation, as applying to the circumstances under which they met, it must have stopped their deliberations in the very outset, and must have raised an insuperable obstacle to those measures to which alone we are indebted for the preservation of our rights. Or even if they had thought themselves at liberty to declare the forfeiture of their sovereign as an existing fact, arising from no act of theirs, but from his misconduct, let it be considered what, under the letter of that statute, must have been their subsequent proceedings? They must have acknowledged that the crown had thereupon immediately descended to the next heir of king James; and that without the sanction and concurrence of their new sovereign no measure could legally be taken by the two Houses of Parliament. Instead of this, they felt themselves warranted by the necessity of the case, first to set aside the abdicated king; next, to disinherit his son, whether real or pretended, the illegitimacy of whose birth, however strongly asserted, had not only not been proved, but was not even inquired into by them; and lastly, in the settlement of the government to introduce a new order of succession, disregarding the strict line of descent, even in the persons of the two next Protestant heirs. What is there which can be a more direct or manifest exercise of legislative authority than each of these several steps? The transferring by law the obedience of a whole people from the sovereign to whom they had sworn allegiance—The superseding his immediate heirs, on whom the right to that allegiance descended according to the fundamental institutions of the monarchy—The changing the established order of succession to the throne in the existing circumstances; and the imposing new conditions and limitations on the subsequent descent of an hereditary crown. This whole transaction, productive of such happy consequences, appears to me to be unquestionably not only an act of legislation, but an act of the highest legislative authority: justified by the necessity of the times, and therefore supported by the concurrence and approbation of the best and wisest men, to whom we owe the preservation of our liberties.

It appears, therefore, on a full consideration of this part of the subject, that the statute in question, and the principle which it declares, have no reference to an occasion like the present. That no other consequence could result from them, if applied to such a case as this, but an immediate dissolution of the whole frame of government, and that for this reason they were not considered as obstacles to the proceedings of parliament, either at the Restoration by the very persons who passed the law itself, or at the Revolution by those illustrious men who then placed our constitution on those foundations on which it is now established.

Another argument has however been urged against our proceeding to provide a remedy by our own authority to the whole extent of what the present emergency may be thought to require. An apprehension has been stated, that such a claim might be extended in the present case beyond the necessity of our situation, or might hereafter be used against the Sovereign himself, and to the subversion of our happy constitution. To this it might be answered, in the first place, that no just argument can be drawn from the possible abuse of any power, against the right to use it in a regular manner, or to apply it to the legitimate purpose for which it was given. Such a mode of reasoning would go at once to sap the foundations of all authority, and to destroy with one blow all the most beneficial institutions of human wisdom. A tyrannical king, and a corrupted parliament, might use their power of legislation for the purpose of annihilating every trace of our laws and liberties. But shall we therefore say, that by the British constitution the power of legislation does not reside in the King, Lords, and Commons? Or, if not, how is it more reasonable to argue against the existence of a right in the two Houses to provide, when necessity requires it, for the security and welfare of their country, because they might, in a different situ-

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tion, act in a manner prejudicial to these important interests?

There is, however, another answer applying more immediately to the particular question which we are now discussing. The principle which the two Houses of Parliament maintain, and have declared by their joint resolutions, is this; that our right to act in this instance in a legislative capacity, being created by the necessity of the case alone, is also limited by that necessity. Whenever the same necessity shall hereafter arise, we shall have no reason to fear any evil consequences from the exercise of the same right. Whenever the right shall be claimed without the existence of such necessity, or whenever its exercise shall be pressed beyond the occasion which requires it, the claim will not only be unsupported by these proceedings, but will be in direct contradiction to the express principle on which we rest our conduct. Let it therefore be remembered, in discussing this question, that it is not by adhering to the line which we have laid down for ourselves, that we shall give just ground for such apprehensions as have been stated; but that it is by departing from it, by exceeding the limits of the necessity which creates our right to act, and by conferring powers beyond the warrant of that occasion, by which alone we can be justified in delegating to another any portion of the constitutional authority of the Sovereign.

The only remaining objection to the present proceedings of the two Houses arises from comparing them with the particular measures adopted at the periods which I have already mentioned; and from showing that they differ from these, and especially in this respect, that no consideration of limitations or restrictions on the regal power was entered into by parliament, previous either to the restoration of Charles 2, or to the Act which placed king William on the throne of England. It seems to me that this ground of argument is entirely removed by the application of the principle which I have just stated, and which is essential to every part of this subject. The separate interference of parliament in those cases could with propriety be carried no farther than the bounds of that necessity in which it originated; and whatever difference exists between those proceedings and our present measures, arises entirely from the different circumstances for which we are now bound to provide.

At the period of the Restoration, the necessity under which our ancestors acted, required no more than this only, that they should acknowledge, on the behalf of their country, the just title of their lawful sovereign, and that they should prepare the way for his immediate return, to take upon him the administration and government of his kingdoms. Their measures were therefore confined to these objects, to provide for a period of a few weeks at farthest, which might elapse before the arrival of their sovereign, and to remove those obstacles to his return which had been created by the preceding usurpation. They might naturally feel, that it would afterwards be a fit subject for parliament to consider what provisions were best calculated to remove the grounds of former jealousies between the sovereign and his people. But these questions were wisely postponed till after the restoration of the monarchy itself. Justice required that the king should be replaced in the full possession of that authority of which he had been unlawfully deprived; and every motive of sound policy made it desirable, that the re-establishment of the ancient form of government should not be delayed, nor the favourable moment neglected, which, if it had been suffered to pass away, might perhaps never have returned.

We are next to consider what was the situation and conduct of parliament at the æra of the Revolution. And it is the more necessary to do this with accuracy, because that enthusiasm which every Englishman so justly feels at the recollection of this event, appears to have induced some considerate and reasoning men to wish that we should not only adopt the leading principles of that transaction—principles to which we cannot too often recur—but that we should also adhere to the exact forms of those proceedings, in points in which they appear to me by no means to apply to the circumstances of the present case. With this view it has been proposed to us, not as a duty resulting from any principle of law (in which light I have already considered it) but as a point of expediency, that we should copy the precedent of the Revolution by addressing the Prince of Wales to take upon him the exercise of the royal authority; and that we should then proceed with his concurrence and assent to the establishment of such limitations as the circumstances may appear to require.

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But in order to see how clearly this example is inapplicable to the present case, we have only to examine what was the nature of that necessity under which our ancestors were compelled to act at that memorable period. They were to supply the vacancy of the throne, occasioned by the forfeiture of a sovereign who had violated the fundamental laws, and had laboured to subvert the constitution and religion of his kingdoms. They were to provide for the immediate administration of the government which he had abdicated, and which would otherwise have fallen into utter and irretrievable confusion. But they had another and a more important duty, which they owed to themselves and to their posterity, and in the discharge of which they hazarded every consideration of personal interest, and personal safety. The preservation of our laws, religion, and liberties, had rendered it necessary for them to drive their sovereign into exile.—A still stronger necessity required that they should effectually provide against the revival of that inauspicious system which he had pursued; and that they should establish their new government on such a firm and solid foundation, that he might never afterwards be in a situation to re-assume his authority, to revenge himself on those who had stood forward to oppose his tyranny, and to seize some more favourable opportunity for destroying the constitution and overthrowing the religion of the country. Under such circumstances as these, there was but one step that could be taken with propriety or safety.—To place the crown immediately, with all its full power, prerogative, and authority, on the head of the Prince of Orange, the only person who could, by the wisdom of his councils and the vigour of his arms, defend the nation against any attempts, whether originating at home or abroad, to restore the former sovereign to the exercise of an authority which he had so justly forfeited.

If we compare these transactions with our present situation, we shall see that they have but one point in common; namely, the right and duty of the Lords and Commons to provide legislatively for those cases where the concurrence of the three branches of the legislature cannot, by possibility, be obtained. But that with respect to the particular circumstances of this day, the necessity which compels us to act, and by which our mode of acting must be regulated, has no relation to that which existed at the Restoration, and is in every material circumstance opposed to that of the Revolution.

The duty which is now incumbent upon us is not, as in the first case, that of putting a king into the immediate possession of an authority which has devolved upon him by the course of inheritance, and the limits of which are clearly ascertained by the existing laws; but it is that of creating a new and delegated trust, to be exercised for a temporary purpose, and to be vested in an office unknown to the constitution of the country.

Nor are we, as in the other case, called upon to supply a vacancy in the throne, by the election of a sovereign, or to preserve our laws and liberties by placing the sceptre in those hands most likely to maintain it against its former possessor—we are to consider by what person, in what form, and with what degree of authority, it may be proper that the government of this country should be administered, during the continuance of the indisposition of our sovereign, and how it may be restored to him without delay or difficulty, immediately upon the happy event of his recovery. In deliberating upon this subject, we should always bear in mind, that the throne is not vacant, but full; that it is filled by a monarch whose virtues have justly endeared him to his people; and whose speedy restoration to his health is not only the end to which all our wishes and prayers are directed, but is also an object of rational and well-founded hope. Instead, therefore, of hastening, as at the Revolution, to create, and to strengthen a power, which may effectually prevent his re-assuming the government, we are bound by every consideration of allegiance to him, and of concern for our country, to adopt a line precisely the reverse of this. We are bound to consider well the nature of our situation and the consequences of our conduct, and to weigh the effects of every separate step we take, before we can feel ourselves at liberty to give into other hands any portion of the supreme and sovereign authority of these kingdoms.

It is, indeed, an arduous and awful duty, which is imposed upon us by this calamity. The guardianship of the rights of our sovereign, the care and preservation of his just prerogatives, have, under the affecting circumstances of the present moment, devolved upon the repre-

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sentatives of his faithful people. We should certainly not be unmindful of this sacred trust, even if we were animated only by our feelings towards him, to whom we are bound not only by the ties of duty and allegiance, but also by those of national attachment and national gratitude. But if we wanted an additional inducement to the discharge of such a duty, it would arise from this consideration, that we cannot, in this instance, be wanting to our Sovereign, without being in the same degree wanting to the most essential interests of our constituents and our country. We are attached, and we have infinite reason to be so, to that part of the British constitution, by which the crown of these kingdoms is declared to be hereditary. The mischiefs of a contrary form of government are so universally known and acknowledged, that it would be unpardonable to waste the time of the Committee by dwelling on such a topic. But let it be remembered, that every argument which can be used in favour of hereditary monarchy, applies with greater force to the maintenance of this proposition, which is essentially a part of the same principle, that during the life of the sovereign, he cannot, except by his own misconduct, be divested of his constitutional authority. All the confusion, discord, and anarchy, which are inseparable from the institutions of an elective kingdom, would unquestionably be found to exist in a still greater degree, if there could be supposed a country where the sovereign was liable, by reason of any temporary disability, to be removed from his exalted situation, and to make way for the appointment of his successor. And it is well worthy of our consideration, that the more strongly we recognize the right of inheritance to the crown in the event of a demise, the more essential it becomes to guard with the utmost jealousy against the admission of any principle which leads to the assertion of such a right when there is no demise, and against the adoption of any measure which might afford the means of superseding the King's authority during his life, under the name and influence of that person on whom his crown would in the course of nature legally devolve.

In touching upon this part of the subject, however strongly I may feel and express the necessity of providing the fullest security for the permanent authority of the King, I trust I shall not be considered as casting any imputation upon the character of his royal highness the Prince of Wales. I think myself bound to argue this question upon very different grounds. If there is any one circumstance which serves above all others as a landmark to distinguish, and at the same time to maintain the boundaries between a free and an arbitrary government, it is this; that in despotic countries, whatever complaints are made against existing grievances, whatever precautions are suggested against the repetition of former evils, whatever securities are desired against the further progress of oppression, are considered as so many personal reflections on the character of the Prince, in whom resides the whole power and authority of the country. In these kingdoms we have established it as a principle of our constitution, that the first executive magistrate has no personal share in the misconduct of his government—and it is not only our right as Englishmen to discuss these points in a manner distinct from any consideration of the character of the sovereign, but as members of this House it is made our duty so to do, by the positive laws and institutions of parliament. I shall, therefore, not enter here into any panegyric on his Royal Highness, because it would be foreign from the view which I entertain of the present subject, and because I think that in this Committee it would be extremely misplaced. I must, on the other hand, desire it to be understood, that the dangers against which I think it necessary to guard, and the precautions which I wish to be adopted for that purpose, have no personal reference to his Royal Highness; but are grounded on this supposition, on which we have always proceeded with respect to our sovereigns themselves, that they may by possibility be misled by the councils of men who may abuse their confidence. And I am sure it must be felt, that unless we are at liberty so to argue, we shall have sacrificed to empty compliments all the most important functions of parliament, both now and hereafter.

Thinking it, therefore, unnecessary to dwell any longer on this point, I wish to recall the attention of the Committee to the principle which I have already stated. That it is an essential and indispensable part of our duty in the present circumstances, at the same time that we establish a form of government capable of conducting the public business with energy and effect, to provide a complete and ample

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security for enabling his Majesty, whenever it shall please God to restore him to his health, to reassume the exercise of his authority fully, freely, and without embarrassment. Our ancestors have acted on the ground of a similar duty in the case of every regency which has hitherto existed in this country, as far as we can trace them with any degree of accuracy, either in the records of parliament, or in the annals of our history. For, if we except the two instances of Richard the 3d, and of the Protector Somerset (which are both such evident usurpations that no stress can be laid upon them), it will be found, that during the course of many centuries, no subject in these realms, however nearly allied to the person of the king, has been permitted, in any case of infancy or disability, to exercise the whole prerogative and authority of the crown. The mode of restriction has, indeed, for the most part, been different from that which is now proposed; but the principle has been the same: that in the establishment of a regency, it is necessary not to look exclusively to the strength and efficacy of the intermediate and temporary government, but to consult, at the same time, the permanent interest and security of the King, in whose name and on whose behalf the authority so given is intended to be exercised. There is no distinction on which it can be argued, that this principle, which has been uniformly adopted in the case of the minority of the sovereign, is less applicable to the circumstances under which we are now placed. Perhaps it would not be difficult to assign some reasons for thinking that it applies with much greater force to the present case, and that in the consideration of the measures now to be adopted, it might, with propriety, be carried a great deal further than in any former instance. But without entering into this, which might lead to an unnecessary discussion, it is sufficient to have established, that the principle of limiting the power of a regency, with a view to the future security of the sovereign, has been felt and acted upon in every case which has hitherto occurred, and is almost co-eval with the constitution of the monarchy itself.

I have, however, already admitted that the mode in which this has been done, has usually been different from that which is now proposed. The whole powers of the Crown have, for the most part, been called into action, though I believe it might be shown that this has not always been the case; but they have not been given to any one subject: they have been divided among a variety of persons, differing in rank, situation, and description, and whose jarring interests have been thought to afford the best security, that they would not concur in measures prejudicial to the authority of the sovereign. And with respect to this point, which relates not to the principle, but to the manner, of limitation, it certainly becomes our duty to proceed with a more than ordinary degree of deliberation, caution, and doubt, when we are desired to depart from the authority not only of a remote antiquity, but even of recent precedents established by persons eminent for their integrity and wisdom.—For my own part, however, though wishing to speak with all the respect which I owe to those precedents, I cannot but say, that I have very serious doubts whether the two last Regency bills were well adapted to the circumstances of the times in which they passed. But this at least I may assert with greater confidence, because I know I am supported in it by the general opinion of this House and of the country, that in the present case, the establishment of such a form as is there provided, would have been productive of infinite mischief, without being compensated by any one real advantage. We are, I believe, all agreed, that the government of these kingdoms should, during this unhappy interval, be committed to the administration of one person, and that it is extremely desirable that this person should be his royal highness the Prince of Wales. But if by general consent we depart in this respect from the practice of our ancestors, it surely cannot be reasonable to argue, that we are, therefore, bound to adhere to it in another point so intimately connected with the former. It cannot be a just conclusion to say, that because they committed the whole authority of a king into the hands of a regent, controlled and fettered by a fixed and permanent council, it is proper for us to delegate the same power to a single person unrestrained by any similar check. It seems, on the contrary, that the more widely we depart from one line of limitation and restraint, the more we are bound to look to some other mode of carrying the same purpose into effect; unless indeed we reject as useless and improper, the whole principle of providing a security for the rights which are hereafter to be exercised by the Sovereign

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himself, in the happy event of his recovery.

Those who hold that principle to be founded both in wisdom and in justice, must make their option between the two propositions, of a regent controlled in the exercise, or limited in the extent of his authority. Of these I have no doubt in saying, that the latter is infinitely more agreeable to the true spirit of the British constitution. That whatever degree of political authority is fit, under any given circumstances, to be exercised for the purposes of executive government, should be exercised by a single person; and that wherever any just ground of danger is found to exist, it should be guarded against, if possible, by limiting the extent of the power so exercised, rather than by dividing amongst many what cannot with propriety be entrusted to one. Such is the principle on which parliament has proceeded at different periods, to diminish the influence of the Crown itself; not holding it necessary, as a general proposition, that the same degree of power or influence should at all times belong to the executive government; but thinking it their duty to consider and regulate this point according to the fluctuation of the various circumstances by which it has been affected. In this manner the household of the King has, within these few years, been regulated by the authority of parliament; and in proportion as circumstances appeared to require it, the number of placemen sitting in this House, and the influence of the officers of government in elections, has at different times been restrained by our interference. The application of the same principle to our actual situation is much stronger, and I am satisfied in my own mind, that it affords not only the most constitutional, but also the most advantageous mode of providing that security, which in the present case is of indispensable necessity.

It is by no means a just conclusion, either from the theory or practice of the British constitution, or from any general principles of government, that the same powers which may be entrusted with propriety to the permanent authority of a king, are equally fit to be committed to those hands which are to exercise the temporary and delegated functions of a regent. The provisions which respect the prerogatives of the Crown in this country, are adapted to the ordinary course of an established government, and are calculated for a long continuance. Because if parliament were in the constant habit of regulating and directing the exercise of the prerogatives of the Crown, those prerogatives would in fact become the prerogatives, not of the Crown, but of parliament itself. It is therefore just and prudent that in apportioning these, a due consideration should be had, not of the necessities which exist at any one precise moment, but of those which may be likely to arise within a considerable compass of time. But in the establishment of a regency the case is directly the reverse. We are to look not to the general exigencies of government, but to those occasions which may probably exist during the period for which the system so provided is intended to continue. And as, for this reason, there may frequently be much less ground to justify the grant of particular powers, so on the other hand there will almost always in such a case be infinitely more temptation to abuse them. The permanent interest of a sovereign will frequently operate as a restraint on him, in those very points where the possessor of a temporary authority, however near to the Crown in prospect or expectation will feel himself most desirous, and will most strongly be urged by others, to exceed the limits of a just and sound discretion.

It is on this ground that I am induced to think that a just limitation of the Regent's powers will not be injurious to the present welfare and prosperity of the country, while it is at the same time indispensably necessary to our future security and happiness. But there is another topic which belongs to this part of the subject, and to which I wish to be permitted to call the particular attention of the Committee, entreating them to give to it that serious consideration which I think it claims from every good citizen. The evils which would arise hereafter, if on the King's recovery we should be found to have neglected the just security of his rights, may perhaps present themselves to the minds of some gentlemen with a less degree of force, in proportion as they may possibly consider them to be more remote. The duty which we owe to the future interests of the King has, however, a strong and immediate bearing upon the happiness, tranquillity, and good government of these kingdoms under the system which is now to be established. The eyes of all Europe are turned to the deliberations of this House. The attention of the people of

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Great Britian is more particularly directed towards us, because they feel that we have taken upon ourselves to act for them in this arduous and delicate situation, and to exercise on their behalf the most important of all their privileges. They have admitted and recognized the right which we assert, they look to us for the discharge of the duty, the obligation of which we acknowledge. Let us then, as we value the continuance of this harmony and confidence, be particularly careful that we do not overstep the bounds of our authority. That we give no grounds for imputing to us that we have exceeded the limits of the necessity under which we claim to act; and that we have granted powers which it did not belong to us to delegate. Let us also pay a just regard to those sentiments of dutiful and zealous attachment to their Sovereign with which we know that our country is animated. Let no breath of suspicion go forth into the world that we have been wanting to the same feelings; that in such a moment as the present we have deserted our duty to the King, or sacrificed to any considerations the sacred trust which his misfortune has imposed upon us.

If unhappily a contrary impression should prevail, what must be its effect upon the minds of a generous and loyal people? I ask not what would be their conduct when the occasion would arise for which we had neglected to provide, but what would be the present security of a system built on such foundations? It is a false and mistaken opinion, that the strength and stability of government are increased by the exercise of powers inconsistent with the principles of justice, or repugnant to the feelings of mankind. The reverse is true—"Nec unquam satis fida potentia ubi nimia est."

Sir, I feel the delicacy of this part of the subject, and if I had not also felt its infinite importance, I should have forborne to touch upon it. I trust it will never justly be imputed to me, that I am forward in raising up a spirit among the people to question those measures which have received the sanction of parliament. But we cannot avoid being sensible that the strongest security for their acquiescence in our proceedings, especially under such circumstances as now exist, is an adherence on our part to the principles of justice, and a conscientious discharge of the duties which are incumbent upon us. If therefore I have felt myself bound to suggest these reflections to the Committee, it is because I feel a jealous concern for the honour and dignity of this House; it is because I feel an anxiety for the preservation of that respect and deference from the people to the decisions of parliament, which is at all times necessary for the prosperity and glory of this country, but which in the present moment I do in my conscience believe to be absolutely essential to the maintenance of our internal and domestic tranquillity.

Therefore, Sir, upon all these grounds,—on the full consideration of the extent of that necessity by which we are empowered to act—of the example of our ancestors whose steps we follow—of our duty to our Sovereign, of whose rights we and we alone are the true guardians and protectors—and of our concern for the interests of millions of our fellow subjects, whose dearest interests are now exclusively committed to our care; I feel myself enabled and called upon to give a decided opinion in favour of a regency limited with respect to power.

It remains for me to consider the several restrictions which have been this day proposed. My opinion with respect to these follows so much from the principles which I have already stated, that I should feel it unnecessary to enter into any more particular detail of reasoning concerning them, if I were not desirous on every part of this important subject, to speak my sentiments distinctly and unequivocally. I agree with the resolution which restrains the power of creating peers—and I do it on two separate grounds. First, because I am clear, that during the short period for which we are now providing, no inconvenience whatever can result from the suspension of this branch of the prerogative of the Crown: that there is, for this reason, no necessity for our delegating this power to any other hands; and that we have, therefore, according to the principle on which I have before enlarged, no right to confer it on the Regent. But there is in the second place a more important consideration which applies to this subject. Of all the powers of the Crown this is the most liable to be abused under a delegated and temporary government; and it is also that from the abuse of which the most injurious consequences would arise to the permanent interest of the sovereign. The power to create at discretion a lasting influence on the deliberations of one of the branches of the legislature, is a prerogative of so

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high a nature, that nothing but a strong necessity would justify that principle of the constitution, which has placed it in the hands of the Sovereign himself. As exercised by him, it is, however, subject to this restraint, that the mischiefs attendant on its abuse, operate against the peace and security of that government, of which the King is not only in actual possession, but which he is to retain for the whole period of his life, and which he can have no interest to weaken or embarrass. The case of a regent is widely different. If we suppose him unhappily to be misled by the councils of men desirous of availing themselves of a short interval of authority, in order to establish for themselves an influence in the state, paramount to that of their Sovereign, what other mode could be so naturally resorted to for this purpose, as the abuse of this particular branch of the prerogative? How could they hope more effectually to secure the continuance of their own power, than by retaining the means, if not of preventing the King's return to the exercise of his authority, at least of embarrassing and thwarting him in every instance in which he might feel it his duty to counteract their views of personal interest or ambition. It may indeed be said, that the same restraint which I have before mentioned, as operating on the exercise of this power by the Sovereign himself, does in some degree apply to it, even in the hands of a regent. And this might be true in the case of a regent whose authority was permanent, or even certain in its duration. But let it be considered, that in the present case, exactly in proportion as the probability of the King's recovery increased, the force of this restraint would gradually be weakened and the temptation to the abuse would grow more powerful. The persons who advised the Regent would then feel it less likely that the consequences of any misconduct of theirs in this respect would be injurious to the government in their own hands, and they might perhaps imagine that they had an interest in the mischiefs which it would entail on the subsequent administration of the Sovereign. The consideration therefore of the shortness of the interval for which we now provide, serves at once to show, that no necessity can exist for giving this power; and to afford a great additional weight to the apprehension of danger resulting from it. In the present moment, I can entertain no doubt that the granting it would exceed the limits of our authority, and that even if that were not the case, it would be the duty of parliament to withhold it on grounds of expediency.

The limitation which would prevent the Regent from anticipating the King's authority by reversions, and from fettering it by the grant of offices for life, is a part of the same principle which has just been stated; and though in its consequences certainly not of equal importance, is nevertheless in my opinion highly necessary to be adopted.

The propriety of the restraint on the disposal of the real and personal property of the King is admitted on all hands, and is founded on the same principle which would be adopted in the case of any other individual in similar circumstances.

The only remaining question is that which relates to the fifth of the resolutions opened to us in the beginning of this debate. That the care of his Majesty's person should be entrusted to the experienced virtues, to the anxious and long-tried affection of the Queen, is in my opinion self-evident on every ground of public duty and of private sentiment, in a case where even private sentiment should not be disregarded. As a point intimately and inseparably connected with the discharge of this interesting trust, the care and superintendence of his Majesty's household must be invested in the same hands. The only doubt, indeed, which could arise upon this subject would be, whether under the present circumstances, the existing establishment ought to be maintained; but if maintained, it can be put under no other direction than that to which the care of his Majesty's person is entrusted. For that any other authority should be suffered to interfere in points so immediately connected with this duty, and that the domestic uneasiness inseparable from such a system should be allowed to add to the weight of the severest affliction, is, I am sure, an idea too shocking to be entertained by any of those persons whom I address in this place.

The proposition of reducing the King's establishment in the present moment would, however, as it appears to me, be scarcely less repugnant to the feelings of a generous people. The smallest degree of reflection upon this subject, must render it impossible that we should reconcile our minds to such a step. It will certainly be felt to be inconsistent with the sentiments which we all entertain towards

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our Sovereign, even if we could be assured that he must always remain unconscious of the disregard which he would thus have experienced from the representatives of the British nation. But if we carry our eyes farther, and look to that happy period to which our wishes and our hopes are turned, what a picture must then present itself! Let us, if we can, imagine, what must be his feelings in such a moment as that, when he is told that his parliament has availed itself with eagerness and avidity, even of the shortest interval, to new-model the offices attendant on his person, and by a miserable economy, to degrade their Sovereign from those circumstances of splendour which belong to the rank in which he was born, and to the station which he still occupies.

But, Sir, this is not all, though I trust this is infinitely more than sufficient to rouse the feelings of every English heart. We profess in our deliberations here, and we have published it to the country in our resolutions, that we mean to establish a system which is to continue only during the King's indisposition. If we are sincere in this declaration we shall be careful to keep alive among the people at large, the impression of that allegiance which is still due to him, and to him alone. Can we believe that it is consistent with this purpose, to withdraw from him every mark of dignity, every external circumstance by which he is distinguished as an object of respect, and to reduce him in this instance to the same level with every common subject?

We know, and it will not be disputed, that the splendour which attends our monarchs in the exercise of their authority is not created for an empty pageant; is not given to gratify an idle vanity, which they would be ashamed to feel; but is established for solid reasons of sound policy. It serves to mark and to define that rank in which the constitution of this country has designed them to stand. It serves to create respect among the people at large, and to impress continually on their minds those sentiments of habitual reverence which are justly due to the higher attributes of royalty. I mean not certainly to compare these external circumstances with the real and substantial dignity of a king —with the power of administering justice in mercy, or with the power of conferring happiness on millions of his fellow-creatures. But if there exists a situation under which our Monarch is for a time unhappily debarred from a personal exercise of these best prerogatives of his station, is it not rather an additional reason for continuing to him the outward forms and ensigns of sovereignty? I trust and believe that the sentiments which his virtues have inspired, are so deeply rooted in the hearts of all his subjects, that no length of time that could elapse, no misfortune that could overwhelm him, no disregard under which he could be suffered to fall, would weaken their attachment, diminish their affection, or repress the ardour of their loyalty. But surely, we shall not feel ourselves at liberty, from these considerations, to neglect the natural and obvious means of preserving in the country a just remembrance of his rights. We must be sensible that every wise motive which before induced us to maintain the splendour and dignity of his exalted rank, has from the circumstances of his actual situation acquired an additional and stronger claim to our attention. Even if our present hopes should be disappointed, and if by the continuance of this calamity we should hereafter find ourselves compelled to resort to a new arrangement in this respect; yet let it never be forgotten, neither at this, nor at any other period of his life, that the duty which we are this day to discharge, is not that of electing a king to reign over us in his stead, but that of creating a delegated trust to administer the government during his indisposition, in his name, and on his behalf.

Sir, I have now trespassed upon the attention of the House much longer than I have done at any former time, or than I had intended upon this occasion. The nature of the subject, its extent, its consequences, and the deep impression which it has made upon my mind, must be my apology. The question is one of the most interesting that has at any time been agitated within these walls. It is probably the most important that will ever occur during the course of my life.—And sure I am that there will be no moment of it, at which it will not be a satisfaction to me to reflect, that I have discharged this high and sacred duty, faithfully and conscientiously, without respect of persons, or consideration of interest, and looking only to that allegiance which I owe to my Sovereign, and to that concern which is due to the peace, prosperity, and happiness of my country.

Mr. *Welbore Ellis* said, that no precedent had yet been discovered, which

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proved that two branches of the legislature could carry any law into execution, without the concurrence of the third. He maintained, that every step the House had taken in the question of the Regency, was not only irregular, but directly contrary to the spirit of the constitution. He asserted, that no government could prove effectual, which was not invested with the power of conferring honours and of punishing offenders: the first was one of the most exalted prerogatives of the Crown, and the last was committed to the operation of the laws. A weak government was, perhaps, worse than no government at all; for it had not the power of acting with energy and effect. But, said the Chancellor of the Exchequer, we will not trust you with power, because you may abuse it: for the sake of argument, he would admit the possibility of its being abused; but what then? Had this House no power to check, to control, to impeach, and to punish any man, or set of men, who dared to trample on the rights of the people, by an abuse of that power which had been committed to them? If this was true, in general, it was still stronger in the case of a regency. The Regent was doubly answerable. He was not only responsible by his ministers, but he was responsible in his own person; for, the maxim that the King can do no wrong, did not extend to the Regent.

Mr. *Drake* said, that he felt himself so much agitated by the eloquent oration of Mr. Sheridan, that it was with the greatest difficulty he could repress the emotions of his soul, when that hon. gentleman sat down. Such was the versatility of the hon. gentleman's oratory, that he could at will civilize barbarity, and symetrize deformity. He confessed that he had caught a spark of his fire, which he said had kindled in his bosom a flame of the most genial and animating nature. But, however much he admired the splendid talents of that hon. gentleman, he could not approve of that party spirit which led him to censure, in terms of so much asperity, the right hon. gentleman, whose administration it had been his pride to support; but though he had been a partisan of Mr. Pitt, he had never spoken disrespectfully of Mr. Fox. It was his duty, no less than his inclination, to support the measures of that man, who had raised his country to a pitch of glory, that was the envy of the universe; he had proved himself the guardian of our morals, as well as of our liberties, and had magnanimously asserted the rights of the people. With respect to the restrictions proposed, he was inclined to think, that his Majesty's household should remain as it was, because many of them might now be considered as professionally in their respective employments, and it would be a pity to turn them out. He professed great respect for the Prince of Wales, and begged leave to conclude his speech with what he called a parliamentary prayer—that virtue, as well as the graces, might be the ornament and support of the throne, and that the virtues of the King might descend to the Regent, his future successor!

Colonel *Fullarton* begged leave to trespass upon the attention of the House, whilst he adverted solely to two points which were not in the least connected with either the lords of the bedchamber, or with the examinations of physicians, or with Philip of Macedon, who seemed so intimate an acquaintance of a noble lord, or with the evidence of Dr. Willis; but referred solely to the established principles and practice of the constitution, and, he trusted, would be found of material consequence to the decision of the great question then before the Committee. In the first place, he understood it to be the declared opinion of the Chancellor of the Exchequer, that all powers and authorities belonging to the Crown, attached as it were to the person of the sovereign; that they remained entire in the King, although he was incapacitated from the personal exercise of them, and that, in contemplation of law, the political capacity of the King continued perfect, and could neither suffer diminution nor defect. If by this technical phraseology was meant, that all the powers and authorities of executive government remained entire in the person of the King, during his incapacity, in such a way, that he should of right exercise the same as soon and as long as he was capable of exercising them personally, and that, while he should not be capable of exercising them personally, they should be exercised in trust for him, no person could be more ready to admit that doctrine than he was. But if, by the contemplation of law, and the political capacity of the King remaining entire, was meant, that the powers and authorities of executive government might remain dormant, unemployed, unproductive to the public service, as long as the King was incapacitated from the personal exercise

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of them, they were doctrines which, in the language of the right hon. gentleman on another occasion, deserved to be treated as treason against the state. Would any man who pretended to the slightest respect for the constitution, venture to declare, that the powers and authorities of government were to be considered as the mere property of the sovereign? That they were to be considered like the store, or the wardrobe, or the privy-purse, as things meant for the personal use, pleasure, and convenience of the sovereign, and that when he was incapable of using them personally, they needed not be used at all? Did gentlemen recollect that the powers of the Crown were vested in the King; not for the personal benefit of the King, but for the benefit of the state? That there were duties and obligations mutually to be performed between the sovereign and the subject, duties of an awful magnitude, involving the welfare and happiness of the people? How, then, could the right hon. gentleman maintain, that these duties and obligations, in contemplation of law, could possibly remain entire in the person of the King, during his incapacity, any other way than this; that when the King was incapacitated from the personal exercise of them, they must be performed in trust for him; that some person or persons, either by devolution or appointment, must perform the duties of the royal station, and exercise the functions of authority in trust for the King, during his incapacity; unless the Committee were prepared to declare the kingly power either totally or in part useless? Surely, the right hon. gentleman had too much respect for the principles of the constitution, too much respect for his own character, to maintain that the powers and authorities of executive government, that the great and godlike attributes of majesty were to be considered as a mere appendage, attached to the person of the royal individual; to sleep when he slept, and only to wake when his faculties ceased to lie dormant! It would be a profanation of the attributes of majesty; it would be a profanation of the rights and welfare of mankind, to admit of such a doctrine.—Colonel Fullarton proceeded next to the consideration of the second point to which he had alluded. He said, that the Chancellor of the Exchequer had declared it to be the duty of the House to grant no more power to the Regent than appeared absolutely necessary for the public service. The right hon. gentleman seemed to conceive, that every thing that could possibly be withheld from the representative of the sovereign, during the King's incapacity, was so much gained to the state. For his own part, he conceived that every portion of the just and established exercise of executive authority, which was so withheld was so much lost to the state, for whose benefit every portion of authority was held. He had ever understood the king of this country, in his legislative capacity, to be sovereign, and at liberty to act according to his will; but that in his executive capacity, the King was no more than chief magistrate, invested with certain powers and authorities, specified by the constitution, and as much bound by those acts which he and his predecessors had ratified, as the meanest subject in his realm.—I have ever understood, added colonel Fullarton, that the constitution is not safe, unless when the three estates are kept separate, distinct, and entire. That for one or two of the three estates to trench on the powers and privileges of the other, has been considered as a sacrilege committed against the general freedom of the state. That such extreme delicacy has been observed in this particular, that the two Houses of Parliament do not venture to interfere with the executive authority, no, not in the most minute particular, excepting by address. That the House of Commons does not even venture on the executive act of publishing its own journals, but applies to the executive power to do it for them, and applies by address. If this statement be neither frivolous nor fallacious, the right hon. gentleman will feel it incumbent on him to prove of two things one, either that to invest the Prince of Wales with all the executive government would prove dangerous to the King, for the resumption of his royal power in the event of his recovering his faculties, or else, that it would prove detrimental to the public welfare.—With regard to the first of these grounds of apprehension, the delicacy and moderation of his royal highness, so distinguishingly manifested in the late trying and distressful scenes, ought to have proved more than a sufficient safeguard against the possibility of such an imputation. With regard to the second ground of apprehension, on which the right hon. gentleman rests the justification of these limitations, namely, that to invest

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the Regent with all the powers of executive government, might prove dangerous to the public welfare, does the right hon. gentleman mean to state, that any of the established powers of executive government are superfluous, that they can be spared, that they are detrimental? Has he ever found, during his administration, that they were more than sufficient for the public service? If he answers "no, they are neither superfluous nor detrimental; but it is improper to vest them in the hands of the Regent," with what front can that right hon. gentleman maintain, that those powers and authorities which he admits not to be dangerous, not to be superfluous for the public service in the hands of a sovereign, in the full possession of his faculties, can possibly, without great detriment to the public service, bear limitation, mutilation, and restraint, in the hands of a regent? Until the right hon. gentleman reconciles these contradictions, I defy him to stir one step in the business of restriction, without involving himself in the uncomfortable imputation of endeavouring to alter, if not to subvert, the constitution, in a very material point of executive government.—The colonel said, that if those considerations were not sufficient to deter from encroaching on the executive authority, it ought to be recollected, that Montesquieu had foretold, that the liberties of England would be in danger, whenever the legislative power should be more corrupt than the executive power; that was, whenever the legislative power should, for personal or party considerations, commit violations on the executive authority. He then adverted to the violations of the constitution, committed at different periods, and said, that when Henry 8 procured to his own proclamation the authority of law, the constitution was undone: again, when Cromwell voted the House of Lords useless, it was a death-blow to the constitution. And surely now, added the colonel, I cannot think the constitution free from danger, when this House has not only declared it to be the right of this House, and of the House of Lords, in all possible cases of the sovereign's incapacity, to choose whom they please for Regent, to elect the emperor of Morocco, if they please, or to elect a Regent, as the Persians did their king Darius, by the neighing of a horse; but when you are proceeding to declare, that it is the right of this House and of the House of Lords, to withhold any part of the executive power, to portion out the executive authority, in what proportions you please, and to whom you please; there is but one step farther, in which it is possible for the House to proceed, and that is, to adopt the wild and desperate notions of some mad republicans in the last century, and to parcel out the powers, authorities, and departments of executive government. The right hon. gentleman, in the course of these discussions, had repeatedly resorted to history and precedent, for which reason he would beg leave to quote a passage from history too, by no means as a precedent for the House to follow, but as an example to deter from committing encroachments on the established government of a country. In the reign of Charles 6 of France, who was in a state of incapacity, Isabeau de Bavière was his queen; a princess attached only to her treasures, influenced by the chancellor, by the prime minister, and other principal officers of the court, who were afraid, that if the government should be entrusted to the heir apparent, during the King's incapacity, they would lose their situation. Under this impression, the desperate resolution was formed, of insulting the heir apparent, almost beyond the limits of endurance; and measures were actually adopted for excluding from the government, that able and distinguished prince, sole heir and representative of the sovereign. This minister, at that time the chief confident of Isabeau de Bavière, was Mervilliers; who commenced his career in the profession of the law, but quickly found a nearer opening to advancement, by the more productive path of politics. The minister and his party, trusting to his eloquence, his talents, his temerity, and his credit with a large portion of the public, adopted the desperate resolution already stated. Charles 6 being in a state of total incapacity, and consequently unable to declare his assent, he undertook to procure the co-operation of Isabeau de Bavière, to the exclusion of her own son from the government, and he farther undertook to procure the thanks and approbation of the mayor and corporation of Paris. What is extraordinary, he did in fact succeed in this atrocious endeavour. He accomplished a treaty to this effect, the treaty of Arras, preliminary to the famous treaty of Troyes, as recorded in the registers of the parliament of Paris for 1419. By means of the Chancellor, and a fiction of the parliament of

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Paris, he affixed the great seal to acts which were the consequence of that treaty; and thus he devised means for giving the royal assent, at a time when the royal assent could not possibly be given. He prevailed on Isabeau de Bavière to ratify that treaty, to the exclusion of her own son from the government, and he was thanked for so doing by the mayor and aldermen and corporation of the city of Paris. But, what were the consequences of these transactions? That the kingdom was involved in all the miseries of a weak, mutilated, and distracted government. There was a double government, a double parliament, a double cabinet, double ministers, double officers of state, and of the household. The kingdom was betrayed to its enemies, and was afterwards rescued from those disasters, by the superior efforts of that brave and distinguished prince whom they had excluded from the government. That prince, who possessed the most interesting qualities, and the most fascinating manners, who had attached to his cause the noblest spirits, and the best abilities of his country, and afterwards, under the name of Charles the victorious, rescued this country from the misery and disgrace in which it had been involved, by those ambitious ministers, from the wretched yoke of Henry 6 of England, that unhappy monarch, whose reign had afforded such abundant subject of quotation, in the course of those debates. Col. Fullarton added, that his object had been, to show the desperate extremities to which the passions of ambitious men might hurry them, and the fatal consequences which had resulted from innovations and violations of the established government of a country; he thanked Heaven, that no such example, nor any thing like it, could as yet be found to stain the annals of England. He had only farther to remark, that the right hon. gentleman had endeavoured, with a peculiar predilection, to shelter his proceedings under the sanction of precedents and analogies of history. Now, said the colonel, I will meet the right hon. gentleman on that ground, and in direct contradiction to the uses which he has endeavoured to make of precedent and analogy, defy him to produce a single instance in the history of any country, where the established legal powers of executive government were mutilated and restrained, without producing inefficiency, counteraction, and disgrace.—He was very far from wishing to include in these observations, the necessary precautions which, at different periods, had been adopted, for preventing the encroachments of the royal power, and for preserving the liberty and safety of the subject. It was true, that instances had occurred in the English history, where the misfortunes of a weak and restrained government appeared almost unavoidable. And why? To prevent the still greater calamities of disputed successions, usurpations, and civil wars, naturally to be dreaded in turbulent times, if all the powers of government were vested in the hands of one man, too nearly connected with the Crown, and possessing too much influence in the country, as in the cases of the dukes of Bedford and Gloucester, during the minority of Henry 6; Richard, duke of Gloucester, during the minority of Edward 5; and Somerset, during the minority of Edward 6. In these, and similar instances, the King, Lords, and Commons, in parliament assembled, making provision for a long minority, had judged it more expedient to expose the king to the misfortunes of a fettered and imperfect government, than to the greater calamities alluded to before. But, would any impartial man, with no such preponderating considerations of danger on his mind, with the history of this country, and the principles and practice of this constitution before his eyes; with a reference to the present circumstances of his Majesty, of the country, of the Prince of Wales, wish to involve the kingdom in the misfortunes of a weak, mutilated, and degraded government? The colonel earnestly intreated the Committee seriously to consider, before they adopted so dangerous and so desperate a resolution.

The Committee divided on Mr Powys's Amendment on the first Resolution: Yeas, 154; Noes, 227. The Resolution as originally moved, was then put, and carried without a division. When strangers were readmitted into the gallery,

Mr. *Fox* was speaking. He said, that if the maxim which the Solicitor-general had argued from on a former occasion, "that the power which necessity creates, necessity must limit," was true, why was there no limitation to those restrictions which the Resolution went to impose? He contended, that the spirit of the constitution was hostile to the principle; for, it was much less solicitous concerning the qualities and abilities of the person who

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exercised the royal authority, than jealous that no act should be exercised which went to destroy that equipoise in the three branches of the Legislature, which was the basis of the whole. But whatever restrictions were intended to be imposed, neither good policy nor equity directed that there should be no limits as to their duration.

A division now took place, on the second Resolution, relative to the creation of peers; Yeas, 216; Noes, 159. All the other Resolutions, except that respecting the King's household, were then severally put and carried.

Jan. 19. Sir Robert Smyth said, that as it would give him concern to become instrumental in retarding the business of great importance which called, at present, for the whole attention of the House, he wished to withdraw the Colchester petition, and therefore would move accordingly. The question being put, that the petition be withdrawn, it was agreed to.

Mr. Pitt having moved the order of the day,

Mr. *M. A. Taylor* begged leave to remark, that rumours had gone abroad, importing that the Prince of Wales had heard of the restrictions. The present question was a question of no common moment, but affected every thing dear to Englishmen: it went to the undermining the constitution, and overthrowing the government of this country. He therefore requested to be informed, whether his Majesty's minister had communicated the Resolutions to the Prince of Wales; and next, whether his Royal Highness had given any answer. If the latter should prove the fact, he meant to move, that the papers be laid before the House.

Mr. *Pitt* doubted whether the hon. gentleman had any regular grounds to go upon, when he asked if ministers had communicated with the Prince of Wales, upon a subject under discussion in the House of Commons; or whether he could show to whom the House could issue orders for the production of such papers.

Mr. *Taylor* was well aware that no ground could be laid before the House under the present circumstances; but it must prove very easy for the House to be put in possession of the sort of information necessary, as there was a member in that House who must have knowledge of such letters passing, if any had passed. Communications ought to have been made to the Prince; if they had not, the cabinet had failed to perform their duty; and if they had, he thought it singular that letters so indispensably necessary to the purpose of the ensuing debate should not be produced to the House.

Mr. *Jolliffe* contended that Mr. Pitt owed such a communication to the House, who ought to be acquainted whether the Prince would or would not, accept the Regency under such and such terms.

Mr. *Pitt* said, that the hon. gentleman had furnished him with a sufficient argument against giving any intimation of the kind. It would certainly be not only very unparliamentary, but presumptuous to say under what restrictions, or in what manner the Regency would be accepted, at the moment the House was deciding upon the mode of offering it.

Mr. *Jolliffe* conceived it would be deluding the House, to propose such restrictions upon the Regency as his Royal Highness would not accept it upon.

The House then resolved itself into the Committee.

Mr. *Pitt* said, that the four Resolutions he had proposed on a former night being agreed to, he should now have to trouble the Committee, by speaking more particularly, than he had before done, to the fifth Resolution, which he should have the honour to propose for their consideration. The foundation upon which he had gone, for all the measures he had proposed, was the exigency of the case; they were bound to provide the means for the dispatch of public business, and for the discharge of the executive authority: they were also equally bound to the care of the person of his Majesty, and the preservation of his dignity, which ought to be inseparable from him during his indisposition. With a view to both, but especially the latter of these points, the last resolution proceeded. On the first he would but lightly dwell, conceiving that all must agree to the care of his Majesty's person being entrusted to the Queen. He would not for a moment entertain an opinion, that to her guardianship there could exist the least objection; he would not anticipate, because he did not believe the existence of a difference of opinion on that subject; he therefore thought it unnecessary and difficult to argue, as it appeared to be like debating on a self-evident proposition: for under the character, under the virtues, and under the feelings, of that great and amiable personage, he was confident there would hardly be a heart in the

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country, which, while it deplored the melancholy necessity that existed, would not at the same moment feel a considerable degree of alleviation, in the remembrance that under such guardianship, with so much propriety and safety, might be entrusted the care of the Sovereign. He would say no more upon that subject, feeling it not respectful to the Committee to argue on a propriety of conduct so self-evident, until he should hear, if it was possible to be heard, an argument against the propriety of delegating such a trust.—The next point of the resolution which he should have to offer, and on which he presumed they might differ, concerned the powers given to the Queen to discharge such a trust, on the one hand, and, on the other, to maintain the dignity of his Majesty's person. The Committee would recollect, that while they were delegating part of the executive authority to be exercised in the King's name, they were bound to provide for the safety of their King, that it might appear that they had not forgotten that he was still their Sovereign; and that the representatives of a faithful and loyal people ought not to endeavour to deprive his Majesty, in his present melancholy situation, of that dignity which he enjoyed at the moment of health. On that ground, he submitted the principle on which he went, contending, that it was necessarily inseparable from her Majesty, in the care to be entrusted to her, to have the whole direction of all about the person of the King: the Lord Steward, the Lord Chamberlain, and the Master of the Horse, could only be considered as the great leading parts of the several divisions of the household; and, therefore, the only question that could arise, on the propriety of their being under the direction of the Queen, was, whether the alteration of circumstances rendered it a becoming point, that any alteration should be made in the expense or duty of such officers, as would render it fit or decent for parliament, in the present situation of his Majesty, which could be considered but as temporary, and which all hoped might prove of short duration, to new model his household, and render it less suitable to his dignity? and whether the management of his Majesty's domestic affairs should still remain to be carried on through the same hands to which it had been for some time entrusted; or whether a new management was to be introduced, during the present temporary interval? The noble lord (North) in the blue ribbon, who could not help speaking with ingenuity, and who possessed much real information, but who on a former day, had only displayed his ingenuity, and withheld his information, had told them of the ease with which those officers might be separated from the household; but he wished to ask, whether it would be decent at such a moment, thus early, and with the well-grounded hopes of a recovery, to try the experiment, how far they might new model and limit his Majesty's household? He maintained, that it was not consistent with the affection of the people at such an anxious period, to hazard experiments, in order to introduce a new system.—A cry of hear! hear! prevailing, Mr. Pitt hoped, that the noble lord and those who noticed his assertion, would attempt to prove the contrary; but, for what he asserted, he appealed not only to the feelings, but to the reason of the Committee. It was an appeal which, the more it was considered, would be found the more to deserve the attention of that House. He wished to ask whether it was expedient to annihilate every appearance of external dignity; whether it was consistent with reason and sound policy, at the moment when the sovereign was incapacitated from exercising his authority, to separate all appearance of sovereignty from him. When these questions should be considered, he could not see how it was possible to deny the propriety of allotting the direction of the household to her Majesty; or to assert, that the preservation of the external dignity of the King, was inconsistent with the duty of the people.—The general grounds on which they had heard it objected against, was, that such power being entrusted to her Majesty, would form so large an influence, and so extensive a patronage, as to render it impossible that any government should be carried on with effect. For that, however, he should reserve his remarks until he should hear it more fully explained. He would nevertheless speak shortly on the argument upon which this principle turned. It supposed that a degree of political influence would necessarily follow patronage. He admitted, that a degree of political influence likely to be exercised, was an evil. He wished however to ask those gentlemen who contended against the power that the proposed establishment might create, whether establishments had not been created,

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much more likely to have been exercised against the executive authority? When gentlemen recollected, that such establishments had been formed, he did not take too much upon himself, when he contended, that what had not been denied to branches of the royal family, ought not to be denied to the sovereign himself, while labouring under temporary illness; an argument that reverted to the propriety of continuing to his Majesty his establishment. If gentlemen disagreed to such a continuance of his Majesty's household, if they were less regardful of his Majesty's dignity at the present moment, than when in health, it would be expected from them to show their reasons, and state the danger of such patronage, as would be obtained by the necessary powers, for a temporary, and perhaps a short interval. The argument of the danger of the patronage, turned upon the supposition, that those who were now in his Majesty's service, would act in opposition to another administration. If that was offered as an argument against the restrictions, he denied the truth of it. Suppose for a moment, and for the sake of argument, that such a conduct was likely to be pursued. A factious opposition, he was bold to say, they would never engage in; he wished not, however, that any man should rest on his assertion, or upon the assertion of any other man; it was public conduct that alone spoke to the people the conduct of public men; he then wished to ask, whether, if they pursued the conduct of a desperate faction or cabal, it was likely that they should meet with support from the people; support equal to that which they had received while in government? was it likely that such a faction should be supported by the authority of the country at large? would it not depend on the independant members of that House, and on the people? Whatever might be the patronage annexed to the powers proposed to be granted to her Majesty, he wished to ask, whether it was likely that the patronage entrusted to such hands would be granted to enable a faction to obstruct with its weight, the government of the Regent? Was it likely, if so given, that it could make it predominant to the accumulated patronage of government? Or, did it appear probable, that the Queen would support a faction, thus to oppose the wise and prudent measures of the government of her son? Was it likely that his Majesty's ministers, in the present calamitous and distracted state of affairs, forgetful of their duty to their country, to the constitution, and to him whose dearest interest was the welfare of his empire, would neglect the interest of the people, to form a factious opposition, in order to obstruct the necessary measures of government? Could it be supposed, that persons standing in such a situation would factiously unite to the injury of a country, to the government of which they might, on his Majesty's recovery, again be called, and the interest of which it had appeared to be, and ever would be, their honour and ambition to advance? He wished again to ask, whether in the situation in which her Majesty was placed, it appeared likely that she should support such a faction as he had described? It was due to his Majesty from a loyal people, not to destroy that system which his Majesty had adopted for the management of his household. He should therefore move, "That it is the opinion of this Committee, that the care of his Majesty's royal person, during the continuance of his Majesty's illness, should be committed to the Queen's most excellent Majesty; and, that her Majesty should have power to remove from, and to nominate and appoint such persons, as she shall think proper, to the several offices in his Majesty's household, and to dispose, order, and manage, all other matters and things relating to the care of his Majesty's royal person, during the time aforesaid. And that for the better enabling her Majesty to discharge this important trust, it is also expedient that a council should be appointed to advise and assist her Majesty in the several matters aforesaid, and with power from time to time, as they may see cause to examine upon oath, the physicians and others attending his Majesty's person, touching the state of his Majesty's health, and all matters relative thereto."

Lord *Maitland* said, that he was ready to agree with every panegyric on the virtues of her Majesty; she was universally known to be eminently amiable and virtuous, and as such he considered her with proper veneration. On her amiable qualities, however, the question did not rest; the proposition for maintaining the dignity of his Majesty, he conceived to be particularly misplaced. It was a dignity, under his present unfortunate circumstances, unfit to be bestowed, and could only beget contumely; it was a dignity that tended not to make his subjects look

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up to him with reverence, but to make them contemptuous scoffers. If the House was not lost to every principle, it could not adopt the resolution as proposed. At the instigation of the right hon. gentleman, the House had agreed, that in conjunction with the other House, they had a right to provide for the deficiency of the executive government; a resolution which he had thought wrong; but it had passed, and the prince was acknowledged as a proper person to fill the situation of Regent. The House considered that he, who was interested, in the preservation of the empire, because he was to fill the throne in future, was, of course, the fittest person to be trusted with the Regency; they had also resolved, on a very good principle, that the Prince, being interested, should not be trusted with the care of the royal person of the sovereign; and, therefore, if the Committee should agree to the present resolution, they would give the lie to their principles. That her Majesty should feel an interest, was natural. She had an interest as a wife, the Prince had an interest as a son. Her Majesty stood under the resolution in a very different light. He would readily agree, that if her Majesty had no part of the executive power, she would be the fittest person to have the care of his Majesty; but, interested as she was proposed to be by the resolution, she would be, in his opinion, more interested than the Prince, and possessing such power, be highly improper, and inadequate to such trust. Novelty was a fascinating circumstance to the human mind, and the new possession of power might warp and prejudice the purest bosoms. Independent of that argument, he had, however, a special objection to her Majesty's being intrusted with the King's person, arising out of the report on the table; they knew what must must be her Majesty's anxiety; they all felt her anxious, her virtuous, and her dutiful wishes on the occasion; they felt that this anxiety might lead her to a belief of a too favourable report of the state of her royal consort's health; and, though such commendable anxiety might redound to her honour, and secure to her universal esteem, it operated against her being solely intrusted with the care of the sovereign, especially when there were princes of the blood in the country who were the King's brothers. The right hon. gentleman, on a former night, had spoken of the necessity of continuing about his Majesty his usual attendants; yet this point would not be effected by the present resolution; for it gave her Majesty the power not only to continue but to remove. By the resolution they were going to sever the executive power of the country, and give a great part of it to the Queen, without any responsibility. Who was to be the responsible person? Were they to look to the Queen? No! Were they to look to her council of advice? No! for they were not a council of power. The Queen would be intrusted with a patronage of upwards of 80,000*l.* yearly; and such a power, he conceived, would, in a great measure, take away, if not totally annihilate, all responsibility in the Regent's ministers; it would create that monster, hitherto unknown to the constitution, a fourth estate in the realm; it would be exercising all that unbounded ambition, all that wished-for patronage, all the unconstitutional attempts charged, but falsely charged, upon his right hon. friend. On the comparison of his right hon. friend's India Bill with the present proposition, he could dwell with pleasure, but not then; at a moment like the present, he conceived it improper to amuse the House with ridicule. If the right hon. gentleman would show him how the present motion could facilitate the King's recovery, he would willingly compliment the right hon. gentleman with his vote; he believed that no reason at all like it could be shown. Perhaps there were some secret reasons, which those who knew the human heart might guess, but no mortal could judge of: the right hon. gentleman might have once climbed into power by a contemptible line of politics, and he had a plan again to wound the constitution of his country, for which reason he would not give him his vote. He had not the most sanguine hopes of his Majesty's recovery: he had examined the register of the principal hospital for the malady in the kingdom, and had found, that out of 125 patients received in the course of ten years, there had not been more than one in four recovered. When the welfare of his Sovereign, the Prince of Wales, and the House of Hanover, came in competition, it was not easy to say which weighed most with him. The Committee could not consent to the resolution, without abandoning the principles of the constitution.

Mr. *Sturt* said, that although he was no orator, yet when he heard the Chancellor of the Exchequer call upon that

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side of the House to know why there was such an outcry, he must signify his disapprobation by his voice [A laugh]. He cared not for their laughing; he loved his country as much as the right hon. gentleman. The right hon. gentleman had boasted of the universal applause of the people, whereas he, residing in London, had been the first to inform his constituents, the electors of Bridport, what was going forward in that House. He did not pretend to quote Demosthenes; but when he saw an attempt to new model the constitution, he voted against it.

Mr. *M. A. Taylor* considered the present as an unconstitutional attempt, and he wished the constitution to remain entire. The whole executive powers of government he had always understood were given for the benefit of the people, and that power ought to be exercised by the executive officer, for the benefit of the people, unmutilated; now, the restrictions not only took from the Regent a material part of the executive authority, but vested it in a party. The chief objection against the India Bill of Mr. Fox was, that it created a fourth estate. Those who should have the care of his Majesty's person, he contended, ought to have no other interest whatever; the power proposed to be given he considered as unknown to the constitution, and as tending to cripple the new government, and fetter the Prince, who ought to be under no restrictions whatever.

Sir *John Swinburne* said, that in the arguments to be advanced on the question before the House, a certain degree of respect was due to her Majesty, and a certain degree of respect was also due to the heir apparent. He considered the present resolution as improper; it tended to introduce a divided government, and a government divided in itself, must necessarily be weak: as a noble lord had quoted Greek, he would quote a few words of Latin—*Imperium in imperio*, was the character of the regency about to be established. They were going to take out of the hands of the executive power the executive trust, and give part of it over to those hands which were not responsible, to those who were completely abstracted from all share in the government, who never were likely to enjoy such power on his Majesty's recovery from his present disorder, nor ever ought to be possessed of it. He asked the lawyers, whether property did not always descend, and whether it was ever ascendible? He saw no good end the present resolution could effect; on the contrary, it appeared to him calculated to promote nothing but division and anarchy. With the powers proposed, it was improper to entrust her Majesty with the care of the King's person alone, as she might be misguided by evil counsellors.

Mr. *Pulteney* said, that if it could be made out that by giving the powers of the resolution to the Queen, there was any probability of her concealing the recovery of the King, he should consider it a good objection to the resolution. He was of opinion, that it was indispensably necessary that every degree of power over the household should be given to her Majesty, to enable her to discharge the duties of her trust. The argument against her having such a power, went on the supposition that she could forget her duty to the King, her husband, the interest she felt in common with him, in respect to his return to his former state of sovereign power, and the duty and affection which she owed to the people. Such illiberal suppositions, he was confident, were not well founded. Objections had been made to the patronage of the power that was proposed to be given to her Majesty. He wished to ask whether the throne was so weak that any person, with the power of distributing 80 or 100,000*l.*, or the votes of two or three persons in that House, and of the lords of the bedchamber in the other, could shake it? The throne stood on no such grounds; it was far more firmly established. He was old enough to remember the days when it had been resolved, that the influence of the Crown was too great, and ought to be diminished. He voted for that question, but he did not think the influence of the Crown sufficiently diminished. Was it so altered at the present moment, that the little patronage of the household could not be dispensed with? Let the Committee consider the patronage of the army, the patronage of the navy, of the customs, of the excise, and of all other offices, and then let them contend, if they could, that the patronage of the household was necessary. The present question did not, however, rest upon those powers of patronage, but upon a temporary regulation for supplying the present deficiency, and for taking care of the safe return of the sovereign to his government, whenever he should be restored to his people. He did

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not agree to restrictions on the Prince, from any fear of the motives by which he was actuated; he wished only to guard against every possibility of danger. Would any one contend, that in the present situation of Europe, government could not go on without that sort of influence. He thought the country could be governed easily and properly, if the ministers of the Regent, whoever they might be, conducted themselves honourably; the people, as they had lately shown, were always ready to give every honest and just tribute of admiration and applause. Let those gentlemen who were likely to come into office on the establishment of the regency, think what was good for the country and honourable for themselves, when they said that they could not govern without the patronage of the household—the patronage of every baker and butcher employed by the royal family! If they acted uprightly, they would stand in need of no such patronage, and a dissolution of Parliament was a remedy in their power, if a faction should arise. He was not present when the question of the right of the two Houses to provide for the deficiency of the executive authority and name a regent had been agitated; yet, upon such an occasion, he would have given his hearty vote in support of that right, and he would now vote as heartily for the restrictions. He would not admit of the probability of the Lords forming a cabal against the Regent's ministers, but he conceived, that if such another unconstitutional Bill as the well-known India Bill should be again brought in, then it would not be unlikely but such administration might feel the bedchamber lords a very heavy weight against its passing.

Sir *James Johnstone* believed, on his conscience, that the Queen was the most proper person to have the care of the King; but he wished to know whether any remedy had been provided in case of the death of her Majesty? He knew it was treason to imagine the death of the King, but the same law did not apply to the Queen.

Mr. *Bouverie* said, that on a subject of such singular importance, in which not only ourselves but our posterity were deeply interested, he wished to propose an amendment which would remove the principal objection to the resolution; namely, to leave out the words relative to the power of continuing or removing the officers of his Majesty's household.

Lord *North* said, that the resolution consisted of three distinct propositions: 1, the care of his Majesty's person; 2, the power to remove or continue the household establishment; and 3, the measure of appointing a permanent council: he submitted whether it would not very much simplify the discussion, if they were to argue those questions separately.

Mr. *Fox* said, that if Mr. Pitt would not agree to separate the different questions involved in the resolution, it must very much embarrass the Committee in their proceeding. He might take the opinion of the Committee on the first part of the resolution, relative to the custody of the King's person; and that being ascertained, their next consideration would be, what ought to be the necessary powers to be granted with that trust.

Mr. *Pitt* said, that as he was decidedly of opinion that her Majesty ought to have the sole care of the King's person, he could not agree to give her that trust without the necessary powers specified in the second part of the resolution; those, therefore, who thought that part of the question objectionable, could move to have the words left out.

Mr. *Bouverie* said, that as he had the strongest objection to the right proposed to be given to her Majesty for nominating and appointing all the officers of the household, he would pursue the right hon. gentleman's idea. Accordingly he moved, "That the second part of the resolution might be left out." The question being put,

Mr. *Grey* contended, that, admitting the propriety of committing to the Queen the care of his Majesty's person, if to that was to be added the patronage of the household, a patronage which did not naturally belong to her, and which she could only retain till the King should be able to resume the powers of government, that circumstance would constitute a substantial argument against vesting her alone with such a trust; because, without giving way to any invidious or unworthy suspicion, abstractedly considered, it did establish an interest opposite to the due discharge of the trust, and which might induce a wish to continue the exercise of it after the necessity which gave rise to it should cease. The Chancellor of the Exchequer had told the Committee, that they were not to provide for a government that was to be permanent, but for an interval which they had reason to be-

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lieve would prove temporary, and which they hoped and trusted would be short; and that in doing this, they were not to be influenced by respect for the person or the character of the heir apparent; they were not to let their delicacy get the better of their duty, but to grant just so much of the royal prerogative as might be necessary for the occasion, and no more. They were first to consider their duty and allegiance to the sovereign, to secure his right and the power of resuming the exercise of government, whenever he should return into a fit state for that purpose; and on this ground he proposed his limitations. But what was the tendency of these limitations, and how far were they calculated to secure that right which they were held out as framed to protect? If his Royal Highness were to forget the duties of a son and of a subject, his love of justice, and his reverence for the constitution, or to sacrifice them all to gratify his ambition, invested with the patronage of the army, the navy, and all the great offices of the kingdom, what could oppose him? Surely, not the lords with white staves, or the feeble bands of the household. Considered in this point of view, the limitations were nugatory. They would obstruct the Regent in the just and useful exercise of his power; they would limit him in the choice of his political servants; but should he or his ministers be disposed to abuse his power, they would oppose no strong obstacle to his designs. The right hon. gentleman made a difference between providing for a temporary and a permanent government; yet, when he argued in that manner, it was incumbent on him to show that there were powers necessary for a king which were not necessary for a regent. This he had not even attempted to prove; but said, first secure the right of the sovereign and his easy return to the exercise of power, and then provide for a government as strong as the necessity of the case demands. In order to effect the one, he proposed limitations inadequate to the purpose; and to establish the other, by taking away what was absolutely requisite to strength, he made that weaker which, from its own nature, was too weak before. He set aside the power of adding to the peerage, because, in the short time the new government was expected to last, it would not be necessary to reward merit, nor to strengthen the peerage, on account of the fluctuation of property; and he argued on the improbability of a party being formed against the Regent among the Peers, as if they were less likely to form cabals when there was no power to counteract them, than when such a power existed.—Having said thus much on the general principles of the whole proceeding, he came next to speak of the particular resolution respecting the household, the patronage of which was to be separated from the executive government, under the pretence of a regard for the dignity of the King. Was this the proper way of respecting the royal dignity? Was a master of the horse, a lord steward, a lord chamberlain, or a groom of the stole, one of the proper appendages of dignity in his Majesty's present melancholy situation? Was not pageantry rather a mockery and insult to his calamity, than a becoming mark of respect? The executive power was thus not only deprived of the influence arising from the household, but saw it placed in such a situation, that it might be exercised against it; and yet, the right hon. gentleman had ventured to exclaim, Is it supposed that a corrupt parliamentary influence can be established? He meant not to argue concerning corrupt influence: but the patronage of the household did give influence, as was perfectly well known, and that was part of the fair, ostensible influence of the Crown. Whether that influence was or was not greater than it ought to be, was not the question; but would the right hon. gentleman contend, that less influence was necessary to the government of a regent, than to the government of a king? He had heard, that when the famous India Bill was agitating in that House and elsewhere, the principal argument against it was, that it went to create a fourth estate, and by lodging patronage and power in the hands of persons distinct from the executive government, to establish an "imperium in imperio." The same principle which had been so strongly contended against in opposing that bill, which had been held up to the terror and reprobation of the public, was now recognized in the resolution, and, should it pass would be carried into effect. A fourth estate would be immediately created, by placing power in hands unknown to the constitution. One regency would be appointed for the executive government, and another for the management of the household. The right hon. gentleman would not allow that this was laying any ground for a factious

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opposition to the measures of government, meaning, perhaps, that any opposition in which he might be concerned, must prove a virtuous opposition. He would not enter into a panegyric on the virtues of the Queen, which no man felt or respected more than he did, because the question was not to be argued on the virtues of an individual, but on general principles. But among all the virtues which adorned that character, was there any which exceeded her moderation? Was there any part of her public or private conduct which recommended her so much to the esteem, the affection, and the reverence of a loyal people, as that prudent caution with which she had, through the whole course of her life, abstained from all interference in the affairs of government? and was it wise, was it proper, was it consistent with a true regard for her interest in the public affection, to place her in a situation new to herself, unknown to the constitution, and which might eventually draw her aside from that line of discreet and amiable moderation which she had hitherto followed with so much circumspection and so much praise? He agreed, that the virtues of the Prince of Wales were not to be considered as an argument, nor ought to influence the decision of the Committee; neither, upon such an occasion, were those of the Queen to be taken into the question. She might have bad advisers as well as the Prince, and by the mention of a council of advice, it appeared that she was to have advisers, and it was tolerably evident who those advisers were to be. The amount of the patronage with which it appeared intended to invest her, was about one fourth part of the whole civil list; and this she was, no doubt, to manage by advice. On the whole whether the resolutions were considered on the principles of the constitution, or on those of general policy, they were equally foreign from the one and repugnant to the other.

Mr. *Dundas* said, that if the point in view was the establishment of any situation as strong as a permanent government, the arguments of the hon. gentleman who preceded him would have had great weight; but this was not the case, and consequently not the ground on which the question was to be discussed. When the right of the Prince of Wales was first mentioned in that House, rash and imprudent as the mention of it had been considered by many gentlemen with whom he generally concurred in opinion, he could not agree with them in thinking that the right hon. gentleman by whom it had been asserted had introduced it without design or deliberation. He believed it to have been mentioned, after due consideration, as the ground of the proceedings which were intended to follow and which could have been built on no other foundation. The limitations he considered as flowing necessarily from the declaration, that it was the right and the duty of the Lords and Commons to provide for the exercise of the executive government during the interruption, from the incapacity of the King; and in this manner, had the consequence been drawn by a noble lord in his speech upon that occasion. The right and the duty thus declared, they were now bound to perform, and he felt the obligation in this way. He considered the King as in possession of his whole and entire political capacity, and that they were to provide a substitute to act for him in the defect of his personal capacity. In doing this, they were to give to that substitute such powers, and such powers only, as were absolutely necessary to the purpose and the time for which he was appointed, and nothing more. He admitted that the government so appointed, should be strong; but he denied, that, in order to give it strength, it was necessary to dismiss the King's household. He considered the provision which they were to make, as calculated only for a short period, as if they had been providing a regency for a minor, who wanted only one year of full age; in which case, it would surely not be contended, that the full exercise of the royal prerogative must be given.—He then remarked on the argument concerning patronage, and said that the patronage which was left to the Regent so far exceeded what was taken away, that the not being able to take a few white wands from those who now carried them, and give them to others, could never impede or embarrass his government. It was, therefore, unfair to argue as if the Regent was to have no patronage. He repeated, that what he felt to be his duty, was to put the political power of the King into the hands of the Prince; but, in doing that, to show that he did not forget his allegiance to the Sovereign, and what was due to his dignity in his illness. The proof of their loyalty, which he trusted they were going to give, would be a great comfort to his

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Majesty on his recovery; and this was a strong additional argument in favour of the mode proposed to be adopted. Much had been said of the argument used against the India Bill; but, there was this material difference between the "imperium in imperio," which that bill went to establish, and any thing which could be attributed to the present measure, that the provisions of it were permanent; and what they were now to do was in its nature temporary and short. That the patronage of the household might be used for the purpose of counteracting the executive government, was an imaginary apprehension. A separate establishment for a branch of the royal family, not under the control of the executive government, had been often made before. When an establishment was made for the Prince of Wales, and when his debts were paid, and an addition made to that establishment, it had never been argued that this establishment might be employed to counteract the executive government. He was well aware, if it had been so argued, what sort of reply would have been made. If an establishment should be made for him as Regent, they were not taking from him either patronage or influence, but, in fact, adding considerably to both. The patronage of the Queen, it was natural to suppose, would prove his patronage, and they were adding to his own that of his mother.—He had avoided the least allusion to the virtues either of the Queen or the Prince, because he considered that the most manly way of arguing, was to keep them totally out of the question. He regarded himself as having executed his duty by the Prince, when he voted him Regent, and as having shown his reverence for the Queen, when he gave her the care of his Majesty's person; and having done that, he would not withhold any part of the trust which he thought necessary to the due discharge of the whole, and necessary to the dignity of the King in his present situation, and to his comfort when he should recover. Not an hour had been lost in settling this important business by those with whom he had the honour to act. Whatever delay had taken place, was to be imputed solely to those, who, by bringing forward strange and dangerous doctrines, had made it as necessary to counteract those doctrines, as to provide a remedy, for the suspension of government. When gentlemen talked of a strong government, and added, that a government could not be strong without influence, he could not admit, that where a regent possessed the unlimited patronage of the army and the navy, the patronage of the royal household was at all necessary to add vigour to his government. He could not lay out of his view the present situation of this country, and the general state of Europe, in which he saw nothing which called for a government peculiarly powerful. Till the King should recover, or till no hope of that event should remain, he thought the powers meant to be given to the Regent perfectly sufficient. If his Majesty should not recover so soon as there was reason to expect, or the melancholy conclusion be drawn that his recovery was not to be expected, it would then be time enough to think either of adding to those powers, or of granting regal powers without any restriction.

Lord *North* said, that, gratified as he must always feel at the approbation of the right hon. gentleman, he could not help experiencing some concern when that approbation was founded on a mistake. In his former speech, he had not lamented that the House had come to the preliminary resolution, because the resolutions of restriction necessarily followed. He had lamented, that a bad precedent was established; but he had never thought it necessary that the establishment of a bad precedent, should be followed by the abuse of it. All the mischief to which that bad precedent led, it was their duty to prevent. He still thought of the first resolutions in the light in which he had stated them to appear to him, when they were introduced, and though he yet felt the regret, that they had then impressed him with, he did not consider, much as he objected to the present resolution, that it was a necessary consequence resulting from the preliminary resolutions. It was certainly a natural consequence, because those who once deviated from the straight path, naturally continued in error. The House had heard from the beginning, that the resolutions were of a temporary nature, and that it was but for a little time that they were to provide for the defect of the personal exercise of the royal authority. Thus, as it was but for a little time, they were expected to sacrifice the constitution, and persuaded to do without it for a few months, and withhold the necessary powers from the Regent. He did not know any part of the duties of a king, which it would not be expected from the Regent to perform. Why, then, should

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any of the regal powers be withheld from him? But, the right hon. gentleman had said, he would have the powers that were necessary, and had asked could a black or a white stick be necessary? The duty of the Regent would be to govern a large empire, and every power which the Crown found necessary to the discharge of that important duty, the Regent ought to have. Had the right hon. gentleman any rule to judge by, of what was necessary for a king other than what was necessary for a regent to enjoy? The India Bill of 1783 had been mentioned; but gentlemen did not seem to attend to the essential distinction between that Bill, and the present measure. The argument against the India Bill, had been, that it would be establishing an "imperium in imperio," and making a fourth estate. The India Bill was an open and avowed measure, and the period of its duration was four years; but the restrictions imposed on the Regent were for no fixed time. But it was said, the restrictions on the Regent were meant to last but a short time. He hoped to Heaven, they would! That argument reminded him of the defence set up for an unconstitutional measure, put in execution some years since, by a most respectable member of the other House, who was generally supposed to be a friend to the constitution of his country—he alluded to the embargo laid on the exportation of corn, which had been said to be only "a forty days tyranny." So in the present case, it was supposed that the necessary powers of the Regent were to be taken away for a short time, during which short time, the Regent might make a faction, and become so strong that it would not be in the power of an act of parliament to resist his ambitious designs. The hon. gentleman had told them, they were to look to the time of his Majesty's restoration to his health; he did look to it, and thought when, by the blessing of providence, that happy hour should arrive, the King would find it as easy a matter to resume his government, as he had to exercise any act of authority, in the whole course of his reign. The hon. gentleman supposed, that if that House withheld the patronage of the household places, there might be a difficulty in restoring his Majesty to his government. When such suppositions were made, he trusted it was for want of argument. The hon. gentleman had talked as if it was necessary to leave the patronage of the household where it was, in the hands of the King; but, if that was really the case, they should leave it in his hands, who constitutionally and virtually, would be king. The hon. gentleman had said, would they introduce a new system into his Majesty's household? If they gave the patronage of the household to the Queen and withheld it from the Regent, that would be to introduce a new system, and separate the patronage of the Crown from the kingly office. But, the hon. gentleman had said, his Majesty's mind would be uneasy, when upon his recovery he should find his household changed. Was it reasonable to say, that because, during his Majesty's incapacity, the offices of the household were disposed of, not to his wish, but according to the idea of the Prince, that his Majesty would be uneasy? Could it be supposed, that when he could alter it back again, he would be uneasy? With regard to the Master of the Horse, the Lord Steward, the Lord Chamberlain, and the Lords of the Bedchamber, they were useful only for political purposes. Why then, ought they not to be employed in political services? The power of making peers, and the patronage of the household were necessary to the Crown, as the fountain of honour, and they were equally necessary to the Regent. It was asked, whether it would do the Regent any harm to remain without those powers, during a short period? In answer to this, he should beg leave to know, whether it would do the public any harm to remain with them for a little while? The whole turned on "a little while." How did the hon. gentleman know the advantage which the holding of those powers might be of to the government of the Regent, in the interim? If his Majesty's recovery should become protracted, then it was said that the restrictions would die away. Would they die away because parliament might abolish them? The motion appeared objectionable, because it was complicated and embarrassing. It consisted of three distinct propositions. First, it stated that the person of the King should be entrusted to her Majesty. There he agreed with the right hon. gentleman, and he believed that the House would agree with him. The next proposititon was, that her Majesty should dispose of the offices of the household, a patronage consisting of about 400 places; The third proposition was that her Majesty should have a council of advice. The first and and last propositions might, in his mind, be well supported, al-

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though they had not yet been sustained by any solid and convincing argument.

Sir *Gregory Page Turner* spoke of the great delicacy and importance of the subject, when the character of the Prince of Wales on the one hand, and that of the Queen on the other, were brought forward. He said, he knew not how to give his vote without disputing the merits of either one or the other. He admired the virtues of them both, but he came there as a member of parliament, to do his duty upon public principles. The question was, whether the Prince of Wales was or was not to be appointed regent. There must be an administration in the country, but he should contend, that if the King's household was put under the management of the Queen, there would be a double household, and a double administration, and a double administration could have no power equal to the carrying on of a vigorous government. It might just as well be said, that the Prince of Wales had no right to bring in his political friends, as that he had no right to the patronage of the household. But, it was said, when his Majesty should recover, he would be uneasy at seeing new faces around him. Now, he was of a different opinion; his Majesty had been pretty much used to new faces. He said, he alluded to the frequent changes of administration that had taken place, and he believed, among the rest, the Lord Chamberlain, and the Lords of the Bedchamber, had been more than once changed. He could not therefore give his vote for the resolution as originally moved.

The *Solicitor General* said, that the arguments they had heard that day, appeared to him to be such as could hardly have been expected to have been stated in an assembly representing Englishmen, distinguished for their humanity, their loyalty, their respect and reverence for their sovereign and his consort. What were the arguments that had been made use of that night? Gentlemen seemed to have forgotten, that where they were to make a choice of evils, it was their duty to prefer that which appeared to be the least. When gentlemen told him, that by withholding the patronage of the royal household, they should be guilty of a breach of the constitution, let them say how he was to discharge his allegiance to the Sovereign on the throne, without taking care that his resumption of his royal authority should be rendered as little difficult as possible? He did not speak with indelicacy towards the Regent, if he showed that jealousy belonging to his character as a member of parliament, which it was his duty to show respecting the other House of Parliament, and respecting the executive government of the country. They were not acting upon personal confidence, but upon public principles. Let them see what the Regent could do, and what he could not do. Let it be imagined that his Majesty might recover at the end of the twelvemonth, and the bill expire in the fortnight next after the end of the twelvemonth. In that case, suppose an adviser out of that House were to approach the Regent, and tell him, "though you have submitted to these limitations for a twelvemonth, yet, believe me, you have an inherent right to the exercise of the royal authority, do not submit to the restrictions which have been imposed upon you any longer." He did not affirm that any person would be so bold as to advise him in any way, but the case was a possible case; and it was parliamentary to state the hypothesis, and provide against the danger of such a circumstance. It had been asked what would be the consequence if the Queen should suffer a demise? In answer to that he asked, what would be the consequence if the Regent should suffer a demise? They would come down to that House, and provide a successor. In the present exigency of affairs, how were they to do their duty to their country? His Majesty's infirmity was not likely to last long, and they were therefore to consider what they had to provide as a measure merely temporary. Perhaps his Majesty might be well in three months; the people therefore had a right to expect, that the House would execute its duty, and not forget the respect due to that sovereign whom they all loved. How was the sense of the people of England to be collected on the subject? Perhaps, if a right hon. gentleman were asked, he might adopt his first opinion, and say, "the sense of the people was spoken by their representatives in that House;" or he might take up his second opinion, and say, "the sense of the people can only be known from the people of England at large;" or he might go back again to his old doctrine, and say, "the sense of the people of England can only be collected in the House of Commons." But let the sense of the people be taken at their bar, or in any other way, the language which they would undoubtedly hold would be,

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"What, could you not do your duty for three short months? Were you so hasty to dethrone your lawful sovereign, that you treated him with the grossest disrespect, and stript him of every mark of regal dignity and distinction, after he had been ill no longer than a month?" What would the people say, when they heard that it was refused to the monarch, by that set of men who said it was the public wish that they should be the ministers of the Regent? Was it possible, that those gentlemen could seriously argue, that the Regent, with the army, the navy, the church, and all the officers of the public revenue at his command, could not carry on a vigorous and effectual government? It was not parliamentary to state that the influence arising from the patronage of places, was absolutely necessary to the carrying on of government, but where was the integrity of that House, if such arguments were used? Was there no man who would act from the impulse of an higher feeling, from a sense of duty, and from what they owed to their character, and to their country? If the proposition was indefensible, he hoped that they should bear such a proposition as would not admit of an exception. He asked if his Majesty was not alive, and afflicted with a severe malady, and whether that circumstance was not a reason for giving him additional attendance, rather than taking that away which he had before his illness? The noble lord had said, that as soon as his Majesty recovered, the Regent would retire, and leave him in the undisturbed possession of the government. It was the duty of that House, to take care that his Majesty should, in such a case, resume the reins of government; they were not to leave it to chance, whether his Majesty might have it in his power to do so, or not. It had been urged, that the proposition gave all the household, in its present situation, to the queen, and that it would be so much influence thrown into the hands of opposition. It was a gross and indecent reflexion on the high and exalted character alluded to, to suppose that she would employ her power for the purpose of opposing the government of her son, the Regent. No proposition could be suggested which was not clogged with some evil or other; but, of two evils he had chosen the least, and, in his honour and his conscience, he thought that the plan which the proposition contained, was, every circumstance of the case being considered, the most safe, most expedient, and most politic that could possibly be adopted.

Mr. *Fox* rose. After adverting to the remarks which had been thrown out on the comparative talents of the two sides of the House, he observed, that he could not deny that he had a partiality for the talents of his friends, and of those with whom he was nearly and closely connected by a similarity of opinion and conduct; but, partial as he was to their endowments and abilities, he disclaimed that want of candour which might induce him to withhold from gentlemen on the other side of the House, the just praise due to great ingenuity and to eminent talents. That ingenuity and those talents had often been displayed on occasions in which he differed with them in opinion, and which occasioned him to lament that he was compelled to oppose abilities so distinguished; but he must say that, on the present occasion, they had not furnished him with reason for such a lamentation. A measure supported with so little argument, he never witnessed. A debate like the present, in which so much had been said on the one side, and so little on the other, he did not recollect; and in this estimate of the matter, he must include the very laboured essay of the learned Solicitor-general. That the subject would not admit of defence was manifest from this, that even the hon. and learned gentleman, whose education and daily habits furnished him abundantly with the modes and forms of reasoning, and who, on other topics, had shown so fruitful a mind, was, on this, unable to advance a single clear and unsophisticated argument for the measure which he espoused, but had, as heretofore, endeavoured to entangle the understandings of gentlemen in the intricacies of legal metaphysics.

For his own part, in the discussion of the important question before them, he would follow the very proper example of an hon. and learned gentleman, whom he did not see in his place, in avoiding the utterance of a single word in praise of the personal virtues of the royal and exalted characters who were immediately concerned. He would neither speak of the virtues of the heir apparent on the one side, nor of her Majesty on the other; such eulogiums unquestionably were neither political nor perfectly manly. To say that which none could contradict, was not manly, and to make the particular virtues of the present royal persons an argument

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either for the adoption or rejection of a great measure, which might in its tendency apply to other times and other persons, was surely not political. He would rather make the hon. gentleman his model, who, at an early stage of this business, had said, that in discussing it, he would not take into his view the plan of the Regency, as it related to the Prince of Wales, but as it might relate hereafter to a prince of Wales: so he would not consider the present Resolution as it affected the Queen, but as it might affect a queen; abstracting from the question every personal motive, and viewing it as it might apply to other times and to other persons, and to its future probable consequences on the government and constitution of the kingdom. The hon. and learned gentleman had begun his speech with a repetition of that doctrine which he had early started, and frequently pressed in debate with the existence and union of the personal and politic character of his Majesty: "That the king's political character was, in the eye of the law, inseparable from his personal—that it remained entire and perfect—and would continue so to do until his natural demise." This doctrine, which had been frequently urged, he had wished in vain to hear explained; for, how that person, whose political faculties were confessedly suspended by a severe visitation of Providence, could still exist in the full enjoyment of his political character, was beyond his understanding to comprehend. The doctrine partook of, and seemed indeed to be founded on, those blind and superstitious notions, by which, as they all knew from history, human institutions had been deified, and by which, for the purpose, perhaps, of impressing a strong and implicit reverence in the minds of the multitude, the fables of men were stated to be of divine origin. That resort was had in those early times to such means, for wise purposes, by men highly gifted, he was not unwilling to admit; and that even in our own history, there might be, and certainly were, among that description of persons in our own country, who, at different times, bore the epithets of tories, high churchmen, and so forth, several who might think that, by propagating the idea of divine right, they surrounded the person of majesty with a mysterious grandeur and authority, which inspired in an enthusiastic people a more prompt and steady obedience. If such was the view in which the hon, and learned gentleman wished to consider this mysterious character of complete political existence, without political capacity, he could only observe on his doctrine, that he took up the superstitions of antiquity, and rejected the morality; for, while he thus enveloped the sacred person of majesty with a political veil, which, by ancient superstition, was calculated to inspire awe, and secure obedience, he was labouring to enfeeble the arm of government, to cripple it in all its great and essential parts, to expose it to hostile attack and to contumely, to take from it the dignity which appertained to itself, and the use for which it was designed towards the people. Such was the tendency of this metaphysical doctrine—a doctrine which, though it might have found proselytes in the dark and gloomy days of antiquity, was not calculated for the intelligence and just understanding of the relative duties of sovereign and subject at the present æra.

The hon. and learned gentleman, in the pursuit of his doctrine, had said, that his allegiance would continue during the life of the King, whatever might be the condition of his mind. That duty, loyalty, affection, and every rational sentiment which could animate the breast of an Englishman, would lead them all to venerate, to love, and to protect the sacred person of his Majesty, however long and however calamitous his malady might prove, was a feeling so predominant, that it was not necessary to take up a moment of their time in asserting its existence. But, when the hon. and learned gentleman stated this as the definition of allegiance, he must enter his protest against it. He, for his part, considered allegiance as a reciprocal duty, springing up in the heart, in consequence of protection, and which was of equal existence. If the hon. and learned gentleman's definition of allegiance was true, and that it was not dependant either on the political capacity, or the exercise of political capacity, but on the bare personal existence of the king, then all which they had heard that day from a right hon. gentleman who spoke early (Mr. Dundas), and from the hon. and learned gentleman himself, that these limitations were but temporary, and that the time would come when they must be revised, and the full power be given to the Regent, was inconsistent and impossible. For whether the King's malady endured one year or thirty years, it was precisely the same in the contemplation of this doctrine, and the legis-

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lature could not vest the full powers of the Crown in any other hands, while the person of the King remained. That such was the latent designs of gentlemen on the other side of the House he did not doubt; and if the hon. and learned gentleman would speak out, he was sensible that he would say that this was his feeling and determination on the subject. In the present moment, they thought it prudent to conceal this intention. Gentlemen, however, could not be deceived—they would compare the argument with the assertion. The argument was, that he felt and acknowledged the immutable perfection of the King to which he had sworn allegiance. The assertion was, that if he did not recover within a short time, the two Houses must alter the present arrangement, and give to the Regent full authority!

The hon. and learned gentleman had cursorily mentioned the time when, perhaps, it might be proper to review those restrictions. Perhaps, at the end of a twelvemonth it might be proper. "But," says he, "if, in the present instance, the House were to limit the duration of them to twelve or eighteen months, at which time they should cease of course, and the King should recover his faculties but a fortnight after the restraints had ceased, what evil consequences might not ensue from that single fortnight of uncontrolled power!" What consequences? Let us examine, said Mr. Fox, what, even in the full stretch of the hon. and learned gentleman's fears, they are likely to be, and what, on the contrary, are likely to prove the consequences of passing this Regency Bill for an indefinite time. In this dreadful fortnight, the unrestrained regent might, perhaps, in the full exercise of his authority, dismiss the lords of the bedchamber, and change the white staves; nay, perhaps he might send a few gentlemen from the Commons up to the House of Peers. What is the mighty evil of this! At the end of one fortnight, the King re-assumes his power; the bedchamber lords are sent for again, and the staves are replaced; all that remains of the evil, are the peers, who in that space may have been created. Compare this sum of evil with that which may ensue from making this regency indefinite as to term. The power of restoring to the executive government the just prerogatives which belong to the third estate, is taken away, and perhaps cannot be resumed. The House of Lords having gained the important point of preventing the Regent from adding to their number, may not, and they are not likely to concede it again; and thus, during all the life of the sovereign, if he shall continue indisposed, there would exist no power of resorting to that remedy against cabal and confederacy in the House of Lords, which the Chancellor of the Exchequer himself had acknowledged to be a probable evil, for which the constitution had provided so prompt a remedy. The right hon. gentleman himself had, in the course of four years, granted forty-two peerages, although in that time he had not heard of any confederacy existing in that House against his measures. There was, he said, in the breasts of the great men of this country, such a love for the Crown, that there was no fear of any factious measures being suffered to prevail. The peers were so distinguished for their love of the Crown, that their could be no apprehension of danger from the party whom he had sent into the House of Peers; but if the Regent were to make peers; if he, for instance, were so lavish of honours, as to grant forty-two, in imitation of the right hon. gentleman, then such a cabal and confederacy might be formed as would endanger the safety of the King! Love for the Crown was to be extinguished, if favour came from the Regent! The prerogative was harmless, while executed under the auspices of the right hon. gentleman: it would become dangerous, if put into the hands of the heir apparent! Of precisely the same spirit was their argument for placing the household in the power of the Queen. In her Majesty's hands it would be helpless, weak, and impotent, if applied to any political purpose; it could not affect one measure of the Regent's government; but, if placed in the hands of the Regent, it would inevitably prevent his Majesty's return to power! To all this train of paradoxes, there was one general solution; they wished to insinuate and to propagate the base and scandalous idea, however artfully for the time they disguised their purposes, that a division might take place between the mother and the son. They affected to hold out tolerably intelligible language that the son might combine against the mother: but, really, with the idea of leaving to the herd to imagine the converse of the proposition, and that, from history, it was as probable that the mother might combine against the son. He could not

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utter, in terms of sufficient indignation, his abhorrence of such a plan; and yet he was ready to confess, that the machination for accomplishing the purpose was artfully laid. It was founded in an observation of human feelings; it was drawn in the speculation that, though in good minds there was a disposition to harmony, yet persons put into a state of competition, however nearly connected by blood, by duty, by affection, were thrown into a state of mutual jealousy, to a degree inseparable from human being. Thus, we frequently saw that competition endangered the existence of the purest and the most tender feelings; that it sometimes broke the most intimate connexions; and it was, in truth, a maxim, that nothing characterized so truly and forcibly the features of a noble and godlike mind, as to continue free from jealousy in a state of competition. How much must those persons have to answer for, who, with a perfect and complete knowledge of this weakness of human nature, yet wickedly and wantonly pursued a measure calculated to involve the empire in the calamity! He trusted to Heaven that the purpose would be prevented. He had confidence in the ardent love and noble feelings which animated the bosoms of the distinguished persons, and he hoped that no artifices, however base; no advice, however fulsome, would prevail in overthrowing within their breasts the sentiments of what they mutually owed to the country.

But the right hon. gentleman had remarked, that he was not to set up a factious opposition. He was one of those persons who had been so long accustomed to opposition, as to have a kindness for it. He was by no means unwilling to see an opposition strong, watchful, and systematic; because he thought that there might be a sincere, as well as a systematic opposition. He conceived, however, that no opposition ought to be armed with such powers as the present scheme was calculated to give to those who should oppose the government of the Regent; for, as the patronage and emoluments of office fairly belonged to the servants of the Crown, and to those who acted with them, so he thought it an incumbent duty on those who opposed government, by relinquishing all share in that patronage and those emoluments, to give a pledge to the country for the sincerity of their opposition. It had been argued by an hon. gentleman, that, without the household, the Regent's government would have power enough; that it would have power enough for good purposes, and it ought not to have more. If it should be found that the Regent had power enough, then surely it behoved the House to resolve, either on the recovery of the present King, or on the accession of his successor, to take from the Crown all those prerogatives which were withheld from the Regent. It should be a principle in all good government to give no power which was not actually necessary to its purpose, or, in other words, necessary to the power of doing good. The wisdom of our ancestors had vested in the hands of the King all the prerogatives of the Crown for the purpose of good government; and now we were to establish a government without the powers which the constitution declared to be essential to its well being!

Mr. Fox declared, that in going into office he expected to have the power, patronage, and emoluments of office; the emoluments were of little value, as the right hon. gentleman well knew, since every minister was obliged to incur expenses fully proportionate. But if he intended to be honestly useful, he must have the fair means of carrying those intentions into execution. If he had to employ confidential persons in national and necessary services, he must enjoy the means of rewarding them. If this was to be called ambitious, he pleaded guilty to the charge. It was, however, an ambition constitutional, and in his mind, necessary. He would, for a moment, put the case to gentlemen on the other side, on their grounds of estimation of the minister. He had, in the four years of his administration, proceeded to many acts wisely and beneficially for the country. Grant the fact: had he not done them, possessing and employing all the powers of the Crown, in the way of place, emoluments, and patronage? It was contended, that the bedchamber lords were so well and so truly disposed to act with government, that they never would resist a good measure. This was one of the inexplicable assertions which he did not know how to meet. Was it meant to say that this corps of officers had such a fund of sagacity to discover, together with such a fund of steadiness to pursue, what was right, that they acted of themselves, without leader or direction? He was ready to confess them to be good troops, well disciplined, steady, and obedient, ready to be brought

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into the field of battle, and there firm and active while engaged; but they were all this, only while under the command of the Crown. How did he know what they might do, if put under another leader? This prætorian band might turn back, and fly from the field. He wished that some generous friend of the minister would rise up, and honestly confess what ground he acted upon in this business:—that he distrusted the one side of the House, and that he voted for these restrictions, because he had an implicit confidence in the other:—that the crooked politics of the duke of Portland, the interested perfidy of Earl Fitzwilliam, the corrupt ambition of lord John Cavendish, determined him against entrusting power in their hands, and that on the other side he could not discover even faint portraits of these Catalines and Cetheguses. It was his earnest wish that gentlemen, if they distrusted, would act constitutionally. If they preferred A. to B. the power of that House was yet, he trusted, sufficient to turn them out of office; and especially, if the persons in office were of that description who bowed to the authority of parliament. Instead of this manly and constitutional mode, the right hon. gentleman opposed men by crippling government. To prevent that party from enjoying office, whom he thought ineligible, he attacked and violated the constitution; he destroyed the balance of the three estates, and endangered, for an unlimited time, the existence of every thing essential in the government to the well being of the country. It was rather singular, also, that they did not perceive the positive weakness of their principal argument in another way. They objected to trust the household in the power of the Prince, because he might change the King's servants, and yet they put it into the power of the Queen, who might remove them at pleasure. Why might they not be changed by her Majesty and her council of advice, as well as by the Regent? The danger was precisely equal. It had been contended that, in the India Bill, they had attempted to establish a fourth estate, unlike the present, that would have made them for ever independent of the Crown and of parliament. The precise fact was, that the India Bill, whether a good bill or not, was limited in its duration, and the fourth estate, as it was called, could not be revived, without an especial act of parliament. Now, the fourth estate to be erected by this resolution, was to be established for ever; it had no period. "But, the patronage given to the fourth estate by the India Bill," say they, "was given to subjects, instead of being given to the Crown." It was given to subjects, undoubtedly; but it was taken from one body of subjects and given to another. It never did belong to the Crown. Now, this fourth estate was taken from the Crown, in which the constitution had originally placed it, and given to a subject. He was astonished that the hon. gentleman (Mr. Pulteney) who had taken so active a part in exploring what he thought the hazards of the India Bill, should shut his eyes on the present so much more enormous power of patronage seized on from the Crown, and put into hands distinct from the executive power.

With respect to the grounds of a speedy recovery, which the Chancellor of the Exchequer held out, and which fact formed the only topic of his argument, he did not mean to say one syllable. If it was true, as it certainly was, that it must prove a serious thing to change the royal person, it was a more serious thing to change the nature of the royal office. It might be for a short time; it might be for a long time; it was certainly for an indefinite time that they were to change the constitution of the country, and all this was to be done on the report of the physicians. Physicians had acknowledged that the science of physic was the most uncertain of all the arts; and that of all the branches of physic, this particular malady was the most uncertain. So then they were, for an unlimited time, to change the nature of the third estate, to impoverish and weaken the executive arm, to create a new estate in the country; and all this, on the report of the most uncertain case which came within the view of the most uncertain of all sciences. He had observed, that to change the nature of the kingly office, was a more serious thing than to change the person of the king. The constitution provided only for the Crown. The King, according to the constitution, was nothing; the King might die, the King might be imbecile; the constitution, careful only of the Crown, was careless as to the precise ability of the King. It made the kingly office hereditary, from the consideration that the Crown being permanently and continually the same, full and authoritative, was less solicitous

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as to the person who was to wear the crown, since it was guarded, guided, and restrained by positive laws. To entrench, therefore, on the Crown, was a truly serious point. Its prerogatives were to be put into the custody of the two Houses of Parliament, and they were proceeding to impair the Crown, for the sake of the King. If it should be said, that the two Houses of Parliament would, no doubt, restore the prerogatives now taken away, he would ask them how they could answer for their successors? An hon. baronet had signified a desire to know what the consequence would be of the demise of the Queen? If the Prince Regent should die, the course was easy and simple. The next prince in succession, the duke of York, if alive, or Prince William, would be appointed to the regency; but if the Queen should die, in whose hands would they place the custody of the King? In those of the Duke of York? Would they strive to divide the royal brothers? A task which, he believed, they would find as difficult as to remove the planets from their spheres. In whose hands would it be placed, joining therewith the patronage now to be entrusted with the Queen?

It was said, "Why object to this establishment, since an establishment for the Prince of Wales was never objected to, on the score of its giving an influence?" This was a most extraordinary argument. Because three or four places were not dangerous, it was asked, Why be alarmed at four hundred? Because 50,000*l.* did not appear dangerous in the hands of the heir apparent, who had a great house to maintain, were 300,000*l.* to be divided? Besides, the Prince's establishment, the small revenue from Cornwall excepted, was in the gift, and annually depended on the pleasure of the King. Several lords in this country, and even some commoners, enjoyed a more ample revenue than the Prince of Wales, because they had occasion for a less burthensome establishment. It was idle and ridiculous, therefore, to compare the two points. The argument of the splendour of the King, was still less to be regarded. What! did they mean to say, that during the unhappy malady of the King, they wished to exhibit the royal person with all the equipage and regalia of state, which were only applicable to public situations! It was insulting to the wounded feelings of the Royal Family, to imagine so indelicate and so gross a circumstance. Either from generosity, or in the spirit of reciprocity, an hon. gentleman (Mr. Pulteney) had contended, that there was nothing in the present state of Europe which could give just reason for a strong government. This evidently alluded to the present deranged condition of France, of which the hon. member had lately been a spectator, and if the hon. gentleman meant that the low circumstances of France ought to induce us not to assail her when helpless, the argument had the generosity natural to the hon. member; but perhaps it was founded in that principle of reciprocity, which had lately prevailed, with respect to that rival power; that because she was lowered and embarrassed, we must lower ourselves to her standard; that this was to be done on motives of reciprocal affection, for the purpose of preserving the good understanding which now subsisted between us undiminished. There was a fellowship in misery, that endeared its objects to each other. Misery made us acquainted with strange companions; it levelled the superiority of pride; it softened the aspersities of opposition. Degraded and sunk in the condition in which France perhaps was at this moment, it would be thought an eligible mode of preserving her friendship, and prevent giving alarm to the rest of Europe. Unless for these reasons, he saw nothing in the present state of Europe to induce us to suffer, much less voluntarily to embrace a weak government.

The Chancellor of the Exchequer had not explained to the Committee two very essential points. If this household was to be established in the custody of the Queen, when was the provision which he spoke of as being necessary for the state of the Regent to be made, and what was to be the extent of it? This ought to have been mentioned. In his mind, the civil list would prove amply sufficient, both for the provision to the Queen, in her care of the King's person, and also for the state of the Regent, if this ridiculous and absurd scheme was not pursued. Upon this occasion, said Mr. Fox, it might perhaps be a matter of delicacy to state the opinion of his Royal Highness, but he knew the sentiments of his Royal Highness to be, that it would be highly irksome to him in the present melancholy and calamitous situation of the country, to add any new burthens, for the purpose of increasing the state and dignity of his own

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situation. He added, that perhaps it was not perfectly regular for him to state this; but as he knew it to be the sentiment of his Royal Highness, and did not consider the observation as improper, he had mentioned it to the Committee. The other point upon which he wished for information, was the ideas of the right hon. gentleman, whether these restrictions were to have a limited duration, and what he should think the proper time for their expiration. In conclusion, Mr. Fox expressed his certainty, that when the public came to view the whole of this scheme, and to compare it with that fourth estate, of which they had heard so much, they would see that the present one contained all the mischiefs that were only attributed to the other, and that it was in truth calculated to confer a favour inconsistent with the good government of the country.

Mr. *Wilberforce* supported the resolutions. He said, that not the Prince, but a prince, might prove so powerful as to cause a king to be dethroned. If the power of the King was diminished, the government of this country was weakened; and so if the power of the Regent was diminished, the government of the country was likewise weakened. The right hon. gentleman who spoke before him, had proved himself to possess more religion than he thought belonged to him; and when he spoke so much against superstition, he could attribute it only to the disgust which he must have felt for the religious rites of the foreign countries through which he had lately passed. It was much more easy in any situation, to prevent the King's return to the Crown than gentlemen might imagine. Had not the right hon. gentleman yet forgotten his foreign politics? Was he so eager to avail himself of the imbecility of the French government, and to take the field against our former enemy? If we gave all the royal powers, with those restrictions only which had been proposed to the Prince of Wales, sufficient authority would be given for the necessary purposes of a regent. The Prince should be declared Regent, but it behoved the House to take especial care that, during the lifetime of his father, he was not placed upon the throne.

Mr. *Drake* urged the House not to embarrass her Majesty, by taking her out of the domestic station, in which she had so long moved, with so much virtuous attention to her family, and forcing her to become a politician. It had been the boast of all who knew her Majesty, that she never had meddled with politics; why, then, should she now be compelled to become a partisan? He conjured the Committee, on the present occasion, to act with one wish, one feeling, one loyalty.

Mr. *Pitt* said, that he would proceed to answer two points which had been put to him by way of question. The first of these was, a question when the restrictions would be taken off the Regent? With regard to the precise time, there was great difficulty and inconvenience in fixing that. If, contrary to his sanguine expectation and belief, the King's recovery should be protracted, he should be of opinion that they must be taken off altogether. With respect to the restriction of making peerages, when the time he had described should come, that restriction ought, in his mind, to be done away. At the period he had described, the establishment of the household might be revised and new modelled. Some provision, also, must be made respecting the real property of the Crown; and as to the places for life, patents, and others, he should then think it expedient to give the Regent a power to grant such as had always been places for life. Another question had been asked him, to which he was extremely desirous of giving an answer; and that was, what the sort of provision was which was to be made for the support of the dignity of the Regent, and when it was to take place? With regard to the time when he should think that immediately after the bill should pass, appointing his Royal Highness Regent; the next thing that followed ought to be the providing a proper retinue to support the Prince of Wales's rank of Regent with becoming dignity and splendour. As to the question of what this provision was to consist in, that was not in his own mind fully determined. With regard to his Royal Highness's declaration, as insinuated by the right hon. gentleman, that he would lament any addition being made on his account to the burthen of the public, every man must applaud the liberality of the sentiment; but though he was well aware what heavy burthens the people sustained, yet, notwithstanding these circumstances, nothing should deter him from coming forward and proposing a new establishment, suitable to the dignity of the Regent. Nor could he think of taking the sum necessary to provide for this establishment out of the Civil List, which was the property of

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his Majesty; but he would fairly appeal to the public, not doubting but that they would with cheerfulness provide for so unavoidable an exigency. He knew not whether he should be left to propose this matter, or whether it might not devolve to other hands; but, whether in or out of office, he should be ready to stand forward on such an occasion, and place the expense where, in his mind, it ought to fall, upon the public purse of the country.

The Committee divided on the motion, That the words in the middle of the question stand part of the question: Yeas, 229; Noes, 165.

Lord North then moved, "That the words 'for a limited time,' be added to the motion;" upon which the Committee divided: Yeas, 164; Noes, 220.

Mr. *Rolle* said, that he had given his vote for appointing the Prince of Wales Regent, under a conviction derived from an assurance communicated by a right hon. gentleman (Mr. Fox) last year, that his Royal Highness was not married. His constituents, however, had directed him to solicit fresh information on the subject. He therefore begged leave to appeal once more to the right hon. gentleman.

Sir *Francis Basset* said, that it was a most indecent practice to agitate questions of this sort, where the very persons who proposed them were obliged to ask for information on which to ground them. If the hon. gentleman knew any thing on the subject, let him bring forward a motion founded on that knowledge. If he did not, it was at once informal and indecent to throw out insinuations, which were so far from being founded in fact, that the author of them was compelled to have recourse to other members to try if he could not obtain that information, without which, in the first instance, he ought not to have stirred a single step in the business.

Mr. *Rolle* appealed to the chair, whether he was disorderly, repeating his former words. He added, that having heard from a right hon. gentleman on a former occasion, an explicit disavowal of any such marriage, though he had since heard and read that the disavowal was not warranted, he had nevertheless so far trusted to the right hon. gentleman's declaration, as to agree to make the Prince Regent. He meant, however, when the Bill was brought in, to move several clauses upon that point, which no threats or opposition should induce him to decline doing. Lord North reflecting upon Mr. Rolle for what he had said, he declared that he alluded not to anonymous publications, but to a pamphlet, with a name to it at full length.

Lord *North* replied, that an assertion at the very beginning of that pamphlet was sufficient to discredit it; for, the author (Mr. Horne Tooke) who was a very ingenious gentleman, set out with declaring, that the Marriage Act was no law; and if assertions of that sort, stating an act passed by King, Lords, and Commons, was to be believed, we were in a state of nature, and there was an end of all government.

This conversation being over, the several Resolutions were reported to the House, and agreed to; and ordered to be delivered to the Lords at a conference.

Further Proceedings in the House of Lords on the King's Illness.] Jan. 22. The Resolutions of the Commons having been presented to the Lords at a conference, their lordships resolved this day into a Committee on the state of the nation, for the purpose of taking them into consideration. The first Resolution being read by the clerk,

The *Lord President* [Earl Camden] rose. He adverted to the progress of the business, and the caution which had been exercised; the two Houses neither manifesting precipitation on the one hand, nor unnecessary delay on the other. He said, he could not perceive, without extreme concern, that a task of such unprecedented weight should have devolved on ministers, and that he was chosen to submit to the attention of their lordships the business in question. That ministers had undertaken it, was an unavoidable act of duty, and reluctantly as he owned he stood up to address their lordships, feeling, from his advanced period of life, every day stronger and stronger reasons to wish to retire from the hurry of business, he had the more willingly consented to state the resolutions brought up from the Commons, and explain their principles, as he trusted it would be the last act of his official political life. Having mentioned the circumstance of his Majesty's incapacity, and the undoubted right which had been decided on as resting with the two Houses of Parliament to supply the deficiency, by appointing whom they thought proper, and with what power they chose, to the exercise of the present dormant and suspended power of the execu-

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tive branch of the legislature, earl Camden recapitulated all that had passed in the previous debates on the question of right, declaring, that the question had been started irregularly, and all upon a sudden, but that it had as suddenly disappeared. Where the claim of right was now to be found he knew not. Certain it was, that it could not be traced in the protest on their lordships' Journals. That question being over, it remained for him to proceed to state what had passed since. A farther examination of his Majesty's physicians had taken place, which he did not mean to quarrel with, or find fault with the principle on which it originated, but it had certainly employed a great deal of time. From that examination, his Majesty's illness appeared to be neither fatal, nor incurable; on the contrary, it was agreed by all the physicians, that the probability of cure was as great as ever, and, that in all likelihood, the malady would continue but for a short time. It was impossible to ascertain the probable duration of his Majesty's illness; it might continue a year, or a year and a half, and it might extend as long as two years. If it should continue longer, it had been declared that, in all probability, the hopes of recovery would be considerably lessened; they were therefore to provide the temporary means of supplying the defect in the exercise of the royal authority, by providing for the deficiency and for the safety of his Majesty on his throne. The resolutions to be offered to their lordships were calculated for two purposes: they would provide fully for the exercise of the executive power with vigour and effect, as well as for the safety and respect that was justly due to the sovereign.—He would not trouble the Committee on that part of the resolutions which gave the care of the King's person to her Majesty, not conceiving that any noble lord would make the least objection to such a measure; elsewhere, indeed, reports of the impropriety of such a trust had circulated, and reflections had been thrown on that great personage; but, as he was convinced every noble lord would feel with him, that those reflections were illiberal and indecent, he would say nothing farther on the subject. The only resolutions that he expected to be objected to were, the one for limiting his Royal Highness in the exercise of the prerogative of creating peers, and that of the continuance of household offices, under the direction of her Majesty. Earl Camden here spoke of the danger of entrusting the power of creating peers to any but the sovereign, who having a life-interest in his government, was the least likely to injure it, by bestowing with too lavish a hand the honours of the peerage. No danger could arise from the suspension, for a short time, of that power, as no merit need be damped; since, during the regency, if any one was so distinguished by his merits in any department, as to be a worthy object of such honour, he could be made a peer by an act of parliament, signed by the Regent, as sir John Cornwall was created in the reign of Henry 6. Indispensable, in his opinion, was the necessity of confining the power of creating peers to the Crown, so long as a prospect existed of his Majesty's recovery; a certain quota of peers to be created fell to the share and within the compass of each reign, and a prudent prince would neither distribute with a lavish, nor with a niggardly hand, but steering between the two extremes, would preserve the happy medium. Restraining the new government from making peers, was in effect doing them service, and keeping them out of the way of temptation. With respect to the necessity of keeping the right of creating peers sacred to the royal person, he should beg leave to appeal to the House, whether, in the ordinary cases that occurred in the course of law, they did not all know, that a tenant for life had no power to cut down timber, whereas a tenant in tail, was in law, allowed its free exercise.—Arguing on the propriety of the household completely resting in the management of her Majesty, to enable her to discharge the duties of her trust, he said, the only argument that was likely to be urged against it was, that it would create an improper influence, and that the new government would be unable to proceed in public business, without having the patronage of those offices, the lords of the bedchamber, and others. The position that the patronage to the household officers was absolutely necessary to the Regent's government, was truly absurd and ridiculous; for, would any noble lord seriously contend, that without such an insignificant number of votes as the lords of the bedchamber amounted to, an administration could not proceed in public business? Would they say that the patronage of the navy, of the army, of the church, of the law, of the customs and of

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the excise, of the East and West Indies, and other considerable patronage, which would be annexed to the regency, would not be sufficient to enable a new administration to carry on the government, unless they also had the addition of a dozen more votes? If their administration was conducted on good and beneficial principles to the country, no such vote would be necessary; but if, on the contrary, they pursued prejudicial and bad measures, not their votes, nor ten times the number, would protect them from the voice and influence of the people.—He deprecated any change in the management of any part of the household, not only as highly disrespectful to his Majesty, but dangerous; since, if those whom his Majesty had appointed as the heads of different departments in his household should be removed, to make room for others, whose faces he had never seen, nor ever wished to see, it might be the means of an attempt to invade the royal chamber, of indirectly taking possession of his Majesty's person, and they might strip his palace of every thing valuable, and every thing which he held dear. Another argument, he observed, had been used against intrusting the patronage of those offices in the household with her Majesty, fearing it would be exercised in favour of a malignant and factious opposition. This was not likely; for no one would believe that the great and amiable personage appointed to have the care of the King's person, would permit the use of her power to be exercised against the good government of her son. It was also unlikely, from another reason—the improbability of those with whom he acted entering into an opposition to the interests of that country in the support of which they had exerted their abilities; they would not degrade themselves by forming an unprincipled or a factious opposition; they had not, while in office, done any act to forfeit their popularity; they had, in all their measures, had the good fortune to be supported by the voice of the people; they had exerted themselves successfully for their interests; they had been crowned with their plaudits; and, in their last act, were they exerting themselves for the rights of the people: they could not quit the public service, therefore, at a more fortunate moment. It was, then, very improbable, that, after having been so long in possession of popularity, they would destroy it by entering into a malignant opposition, and showing that they acted upon other motives than those of the public good. His Majesty's ministers now had no power, but opposition had all the power which at present existed. In conclusion, the Lord President moved, "That it is the opinion of this Committee to agree with the Resolution, That for the purpose of providing for the exercise of the King's royal authority, during the continuance of his Majesty's illness, in such manner, and to such extent, as the present circumstances of the urgent concerns of the nation appear to require, it is expedient that his royal highness the Prince of Wales, being resident within the realm, shall be empowered to exercise and administer the royal authority, according to the laws and constitution of Great Britain, in the name and on the behalf of his Majesty; and under the style and title of Regent of the kingdom: and to use, execute, and perform, in the name, and on the behalf of his Majesty, all authorities, prerogatives, acts of government, and administration of the same, which belong to the King of this realm, to use, execute and perform, according to the laws thereof, subject to such limitations and exceptions as shall be provided."

Earl *Fauconberg* said, that he could not avoid repelling, with indignation, an idea which, if he had heard the words distinctly, seemed to have been conceived by the learned peer whom he understood to have said, that the votes of the lords of the bedchamber were insignificant, and unworthy of consideration. Gracious Heaven! was he to hear in that House, that, because he was a lord of the bedchamber, his vote was not worthy of consideration? He trusted, his vote was as good and as worthy of respect, as any noble lord's in that House. He had been appointed a lord of the bedchamber ten years ago. Lord Ashburnham wrote to him, unsolicited on his part, intimating the honour to which he had been appointed; and, when he saw lord Ashburnham, the noble lord did not take him into a corner, and say, "You are expected to vote so and so." If the noble earl had treated him in that manner, he would instantly have spurned at the proffered honour. He felt what had been that day said, as a disgrace to the heir of a noble family, some of whom had bled in the service of their country. It was true, he had given his support to the present administration, but he had given it from

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principle, and in no other manner would he ever give his vote.

Earl *Camden* was concerned that the noble lord should have taken offence at any thing that had fallen from him; he meant no disrespect to the noble lord; he knew that his lordship possessed too much honour, for a moment to be influenced in his vote by the office which he held, and he believed the same of every one of the noble earl's colleagues. He did not say that their votes were insignificant, or of no consequence; but he had, in stating the argument that was used elsewhere against her Majesty's having the disposal of those offices, said, not that their votes individually were insignificant, or of no consequence, but that the difference in number of twelve or fourteen votes, was insignificant to carry on a government.

The Earl of *Winchelsea* conceived the learned lord to have spoken as he had explained himself, and that no reflection was meant to be thrown on the lords of the bedchamber. All the reflexions that had been suggested against those lords in any place, he ascribed to party motives, and considered as too contemptible to merit the smallest notice.

The Bishop of *Landaff* [Dr. Watson] rose, and after highly commending the spirit and sensibility of the two noble lords who had resented the supposed indignity which had been offered to the lords of the bedchamber, though he could not think that any offence was meant, proceeded to observe, that similar intimations of the dependency of the Scots peers, and of the bench of bishops, were not unfrequently given in that House, and in other places; that he for one, spurned the imputation with contempt; that he felt it injurious to himself, and he believed it to be injurious to the other noble and right reverend persons to whom it was applied. He then said, that he would not trouble their lordships with a long speech, and that he knew not, indeed, whether he ought to trouble them with any; for that he had not the presumption to think that it would be in his power much to illustrate a subject, which, as to a main part of it, had already received so ample a discussion on a former day. But, he trusted the House would forgive him, if he said, that he felt a singular satisfaction in being allowed an opportunity of delivering his sentiments plainly and publicly on as great a constitutional question, as had ever been agitated in that House since the Revolution. He would endeavour to do it with as much perspicuity and with as much brevity as possible. He would not, he said, misspend any portion of their lordships' time, in deploring the sad necessity for that day's debate. The calamity with which the nation was afflicted, would have been a great one, had the monarch been a bad one; what it was now, was far more easily to be conceived by them, than it could be expressed by him; for, they would listen to him with impatience and disdain, if he undertook, by reasoning, to prove, what was felt by all, that it was one of the greatest which could have befallen us as a people; all ranks, all parties, all individuals, who had any value for the constitution, agreed in thinking that it was so and all, he hoped, united in praying to Almighty God to relieve us from it, by restoring our afflicted Sovereign to perfect sanity of body and mind.

But, my lords, he continued, till it shall please Almighty God to do this, my opinion is,—I humbly submit it to the House, with that firmness which becomes an impartial inquirer after truth, but with that diffidence also, which becomes a man frequently conscious of his inability to attain it, and who, on every difficult question, whether of policy, philosophy, or religion, is, by nature and habit, more disposed to doubt, than to dogmatise—my clear opinion however, is, that in the very outset of this business, as soon as ever the two Houses of Parliament had by solemn investigation, ascertained the single fact of the King's incapacity to govern the land, they ought to have empowered (I beg my lords, it may be observed that I question not the competency of the two Houses to empower) his royal highness the Prince of Wales, the next in blood to the throne, by a commission under the Great Seal, or otherwise, to take upon him, not, I think, the whole regal power, (though that would have been a more justifiable and constitutional mode than what has been followed) but the whole legislative authority of the King. The legislature being, by this one act of necessity, completed, and the constitution restored to its vigour, by the Prince of Wales presiding in parliament as his father's commissioner, the next step should have been for the parliament, I mean the complete parliament, to have appointed a regent whom they thought fit, and with or without limitations as they thought fit. For, though I think it would have been highly improper for the legis-

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lature to have appointed any person Regent, except the Prince of Wales, or to have appointed him Regent, with any other check or control, except such as the constitution has thrown around the King himself, in the exercise of his power, yet I admit, in the fullest extent, that the legislature would have had both the power and the right to have done otherwise. A regency being settled, not by the two Houses of Parliament, but by the whole legislature, the next step should have been, to make the best possible provision for the guardianship of the King's person, for the security of his private property, and for his re-assumption of all his public rights of sovereignty, as soon as ever it should please God to put him in a capacity to enjoy them. This mode of proceeding would, I humbly think, have been the least perplexed, and the most constitutional, which could have been followed; another mode has been adopted, and limitations of the Regent's power have been proposed; and as I can neither approve of the mode in which the limitations are proposed to be established, nor of the limitations themselves, I think it incumbent on me to state the reasons of my dissent.

I begin, my lords, with advancing a proposition, which will be denied by none; the proposition is this — That the monarchical power of a king of Great Britain is not an arbitrary but a fiduciary power; a trust committed by the community at large to one individual, to be exercised by him in obedience to the law of the land, and, in certain cases, according to his own discretion, but in subserviency to the public good. This proposition is one of the most fundamental principles of our constitution, and of every free constitution in the world; its truth cannot be questioned; and its truth being admitted, it seems to follow, as a legitimate consequence, that whenever the individual to whom the community has committed this trust, shall become incapable of executing it, the trust itself ought to revert to the community at large, to be by them delegated, pro tempore, to some other person, to be exercised by that other person, for the same common end, the promotion of the common welfare. It might otherwise happen that one man's misfortune might become the occasion of all men's ruin. But if, during the present incapacity of the King, the trust which has been given to him, not for his benefit, but for the benefit of those who gave it to him, does in fact revert to the community, then may the community delegate, till the King's recovery, the whole or any part of that trust to whomsoever they think fit. Upon this, or some such general ground of reasoning, I presume the proposition has been founded which maintains, that the Prince of Wales has no more right to the regency, previous to the designation of the two Houses of Parliament (which may be supposed to represent the community at large), than any other person. My lords, I conceive this reasoning is not true; it would have been true, had the law been absolutely silent as to what was to become of the trust, when he to whom it was given became incapable of exercising it; but the law is not silent. In one case in which the King becomes incapable of executing the trust committed to him, the law has clearly and positively said— "No, the trust shall not revert to the community at large, the community perfectly know the mischief of such a reversion; they will have nothing to do with it; it shall go, according to the established order of succession, entire to the heir." This is the express declaration of law, when the king becomes by death incapable of exercising the trust committed to him; and the analogy of law speaks the same language in the present case; it says, "No, the trust shall not revert to the community, it shall go pro tempore, and it shall go whole and entire to the next in succession to the Crown; it shall go to the Prince of Wales, who is of an age to receive, and of a capacity to execute, the trust for the public good." I say not, my lords, that the Prince of Wales, has a legal right to the trust, but I do most firmly contend that he has such a title to it as cannot be set aside, without violating the strongest and most irrefragable analogy of law; and in what such an analogy differs from law itself, I submit to your lordships mature deliberation. We have heard much on this occasion of the word "right;" but no one has condescended to define it. Now, my lords, if, with Grotius, we define right, as applied to things, to be a moral power of possessing a thing in conformity to law, it is certain the Prince of Wales can have no right to the regency; for the case has never occurred in our history, of a king being incapable of governing, when an heir apparent was of full age to govern, therefore there is no unwritten law, and every body knows that there is no statute law respecting the point; therefore there is

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no law, and where there is no law, there can be no conformity to law, there can be no right. But if we define right to be a moral power of possessing a thing, consistently with law; and if we admit that what is not forbidden by law, is consistent with law where is the law, written or unwritten, which forbids the Prince of Wales from exercising the executive government of the country, during the incapacity of his father? It might, I think, be shown, that the law forbids every other person in the kingdom from doing this, but I doubt whether it could be shown that it forbids the Prince of Wales. I beg pardon for troubling your lordships with these logical distinctions; yet, on such distinctions depends clearness of ideas, on clearness of ideas depends closeness of argumentation, and on closeness of argumentaion depends the investigation of truth. I will proceed to another argument.

An old and venerable expositor of the common law, instructs us to consider the king as composed of two bodies; one natural, subject to passions, and mortal; the other politic, subject to no passions, and immortal; an union of these two bodies constitutes a king; and he defines a demise of the Crown to be, a disunion or separation of the body politic of the king from his body natural. Admitting this definition of a demise to be a just one (and it is of too high authority for me at least to question it), I would argue thus—whenever there is a separation of the body politic of the king from the body natural of the king, there is a demise of the Crown. But, during the present indisposition of the King, there is a separation of the body politic of the king from the body natural of the king; therefore, during the present indisposition of the King, there is a demise of the Crown. My lords, I should be ashamed in this place, or in any place, on this occasion, or on any occasion, to produce an argument, which I did not think was founded in truth; I do think that this argument is founded in truth; but that I may deal candidly and ingenuously with your lordships, as I ought to deal, I will state to the House wherein its weakness, if weakness it has any, consists. Its weakness then, if it has any, consists in this, that the great common lawyer to whom I have alluded had not, probably, (I say probably, for I cannot speak with certainty) when he gave the definition of a demise of a crown, which I have mentioned, any other cause of the separation of the king's body politic from his body natural, in contemplation, except that which is occasioned by death. It rests with your lordships to determine whether the definition does not in principle extend farther; I think it does. Thus, if a king should become incapable of exercising the functions of a king, by being driven, for a time, from his throne, as happened to Edward 4, or if he should become incapable, by voluntarily abandoning the throne, as happened in the case of James 2; or if he should become incapable, by the hand of God; in all these cases, and in cases such as these, there would be a civil demise of the Crown. I know not whether the law books acknowledged the term civil demise, but I do know that the ideas comprehended under that term are as perfectly intelligible, as those are which are comprehended under the term natural demise. I am not, my lords, here to be told, that the throne is not vacant; I know that it is full, and that the powers of him who fills it are not dead, but dormant; not extinguished, but suspended; therefore it is, that the demise I am contending for, is not natural but civil: not absolute, but conditional; not perpetual but temporary. It is a maxim, I am told, in law, that the king never can become incompetent to the exercise of the kingly office; it is not my intention to question law maxims, which are generally founded in great wisdom, but I must be allowed to say, that we are at this moment denying in fact that integrity of kingship which we are establishing in words; for what is this politic capacity of the King, which always remains entire, but the power of executing the office of a king? it is that body politic of the King which is immortal. But, in appointing a regent, we certainly disunite the body politic of the King from his body natural, and we annex it for the time to the body natural of the Prince of Wales. This civil demise of the Crown differs not, I think, from a natural demise, in the quantum of power which ought to be transferred to the successor; but it differs from it in the mode by which that power is acquired, and in the tenure by which it is holden.

Let us look at this subject in another, but not in a less interesting point of view. Was the kingdom a private estate, (I am far, my lords, from considering kingdoms as private estates, which kings may use or misuse, as each man may his private pro-

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perty, but it may, for the present argument, be considered as such:) Was, then, the kingdom a private estate, into whose hands could you so properly commit the management of the estate, during an incapacitating indisposition of the father, as into the hands of his eldest son, who had attained his full majority, and on whom the estate with all its appurtenances, was strictly entailed? You might irritate and provoke the temper of such a son, and drive him to a wild and giddy negligence of his concerns, by showing a distrust of him, in not suffering him to have the sole and full management of that, which he of all others was most interesting in managingwell; you might degrade him in the estimation of mankind, and debase him in his own opinion; but you would not do justice, believe me, my lords, you would not do justice to those abilities which great occasions call forth, and exercise confirms; you would not cherish and invigorate those talents, which arduous situation, and proper confidence, never fail to produce in young and ingenuous minds. In a word, and to apply this, either the Prince of Wales is fit to be Regent of the kingdom, with full regal power, during the present incapacity of the King, or he would not be fit to rule the land, was the King no more. But the law suffers us not to quibble and to dispute, and to introduce our partial distinctions, concerning the fitness or unfitness of a Prince of Wales to rule the land, when the king is no more; it tells us that he is fit; and the analogy of law tells us, that he is fit to be Regent of the land, with regal power, whilst the King continues to be incapable of exercising the functions of a king.

In what he had hitherto advanced, he said, that he had paid no attention to the precedents on which so much stress had been laid, and in the application of which, he had been told, by the highest authority of the law, that the whole matter consisted. He had omitted the consideration of the precedents, because their importance had been sufficiently weighed in a former debate, and because he was of opinion that though there were some shades of resemblance between the present situation of the country, and its situation during the infancy of its kings, yet there were such strong lines of discrimination, as sufficiently distinguished the two cases. But that he might not appear to assert this, without proving it, he would advert, for a moment, to the precedent of Henry 6, during the infancy of that monarch; inasmuch as a peculiar degree of importance had been given to that precedent: but before he pointed out the difference of the cases, he could not help observing, and with a degree of astonishment, that this boasted precedent had not been followed in the only two points which were of consequence.

What, my lords, was done on the accession of Henry 6? a commission was issued, by the order of the privy council, under the Great Seal, appointing not any person, not any number of persons, but the next in blood to the king, to convene a parliament, and to preside in the parliament when convened, in the name of, and with the authority of the king. Has this been done now? No such thing. The parliament, when our King became incapable of governing, was convened, and had the precedents of Henry 6 been followed, by order of the council, or by order of the two Houses of Parliament, the Prince of Wales should have had a commission given him, under the Great Seal, to preside in this parliament. What was the next step which was taken in the reign of Henry 6? A Regent was appointed, by the authority of the legislature; that Regent was the duke of Gloucester, the person nearest in blood to the king, except the duke of Bedford, who was not then in the kingdom; and he was controlled in the exercise of his authority, by a permanent council. Has this been done now? No such thing. The Prince of Wales is indeed to be appointed Regent, but he is not to be appointed by the legislature, and he is not to be controlled by a council. My lords, could I have been of opinion that the proceedings, during the infancy of Henry 6 ought to have been followed by the nation in the reign of George 3, I would have placed my foot on the precedent I have been considering as on a firm basis; I would have looked my country in the face, and boldly said, the Prince of Wales is now restrained by a council, because our ancestors restrained, by such a council, the regent in the reign of Henry 6. This would have been a manly proceeding, and a strict conformity to the precedent might have been a degree of justification for having followed it. But to follow precedents, without a reference to the times and circumstances under which they were made, is to follow blind guides, which will frequently lead us into error; and I have no difficulty in saying,

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that we ought not now to follow the precedent established during the infancy of Henry 6. I admit, that there is a similarity, or rather an identity, as to the fact of the incapacity for government in the two Kings, but in nothing else is there any similitude. Henry 6 was an infant unknown to his subjects—George 3 is a monarch endeared to all his subjects by a long reign; Henry 6 was born in a barbarous age, when the constitution was unknown, and the succession unsettled—George 3 lives in an enlightened age, when our constitution is understood by almost every man we meet, and when no doubt remains respecting the succession to the Crown. Henry 6 was surrounded by ambitious nobles, whose adherents were so numerous, as to enable them to grapple with the king himself for the possession of the Crown—George 3 is surrounded by nobles, whose adherents are not so numerous as to render them dangerous, not one of whom has the slightest pretensions to the Crown, and all of whom, my lords, I know I speak truth, would sacrifice their lives and fortunes to keep the Crown on the head of him that wears it. But my lords, there is yet another distinction between the two cases, and it is a distinction of the utmost moment. I speak on this point with great diffidence. I oppose the declared sentiments of two noble lords, whose legal abilities are above my praise, and of whose discriminating faculties on all subjects I have a good opinion; I beg pardon of those great luminaries of the law beforehand; I am certain I must be in an error, though I cannot see it; they have contended, that there is no difference, as to the present argument, between an heir presumptive to Henry 6, and an heir apparent to George 3; and I contend that the difference, in this case and I consider no other, is obvious and immense. Henry 6, an infant of nine months, or of nine years, for it makes no difference as to the argument (as what was done with respect to the regency in the first year of his reign, was done for several years afterwards), and the heir presumptive of Henry 6, stand on one part; on the other, we are to consider George 3, a king beyond the middle age, and the heir apparent, a man of twenty-seven. Now, my lords, I will assume only this one postulatum, which, in all fairness of logical argumentation, cannot be denied me—that each of these four personages lives to the ordinary period of human life, then it is evident, that the heir presumptive of Henry 6, never can, by fair means, obtain the Crown; and that the heir apparent of George 3, never can, by fair means, miss the Crown; and the difference between a certainty of never possessing, and a certainty of never failing to possess the Crown, is, in my humble opinion, obvious and immense. It is a difference, too, so important in its nature and consequences, as to render the restrictions of the Regent's power, in the person of the heir presumptive of Henry 6, perfectly inapplicable to the Regency of the heir apparent of George 3. I have done with the consideration of the precedents, and will proceed to consider the restrictions themselves.

It is said, then, that in the constitution of a regency, no more power ought to be given to the regent, than what is sufficient to enable him to carry on the executive government of the country with effect, for the public good. My lords, I admit this proposition in its full extent, and it is on the truth of this proposition, that I ground my argument for there being no restrictions put upon the Regent; all the regal power is necessary to enable him to carry on the government for the public good. What! my lords, is it insinuated, or asserted, that the King himself has an atom more of regal power belonging to him by the constitution of the country, than what is sufficient to enable him to carry on the government of the country with effect, for the public good? I contend that he has no such power; such a power would be, a power to do wrong, and the King has no such power; it would be that "injuriæ licentia," which is the basis of tyranny in every kingdom of the world; it is that which the despots of the Continent claim and exercise, which our monarch, thank God, we are certain would not exercise, could he claim, but which our constitution, thank God, does not suffer him to claim.

But, it is objected, if you give the whole regal power to the Regent, you make him not a Regent but a King; you dethrone the Monarch, and place the Crown of George 3, on the head of George 4. These, my lords, are high-sounding words; but I have not been accustomed to pay attention to words, beyond the sense that they contain, and I do not see that these contain any. The whole regal power is requisite for the Regent; because

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it is requisite for the common good that the whole regal power should have an existence somewhere. But, though you give the Regent the whole regal power, you will not make him a King; he will differ essentially from a King in this—that he exercises his power in the name of another; every public instrument which he sets his hand to, announces to every man in the kingdom that the Crown still rests on the head of his father. He will differ too from a king in another point, in what is the most essential point of royal power—in permanency of possession.

But, it is contended in particular, that the power of making peers should not be given to the Regent. What! is this high prerogative, then, useless or pernicious to the state? No, it will be said, it is a prerogative productive of public good, when exercised by a king, but productive of public mischief, when exercised by a regent. My lords, there is no manner of foundation for this reasoning, when the regent is the heir apparent. There might be some ground for it was the Queen the Regent, was the duke of York the Regent, and much more was any other person Regent; because, every other person in the kingdom, except the heir apparent, might be supposed to have a private interest, diverse from, and opposite to, the public good. Peers might be made in attention to this private interest. But this cannot be supposed concerning a prince of Wales; to say, that he can have any private interest in view, distinct from the public interest, is to say that he is absolutely unfit for the government of the country; an assertion not more reprobated by the law of the land, than, without meaning any flattery to his Royal Highness, I believe it to be false in fact.

But, if the Prince of Wales is allowed the power of making peers, he may infringe the rights of the reigning Sovereign; and the King, on his return to his parliament, may find this House filled with the friends of the Prince of Wales, and with the enemies of the reigning monarch!—Good God! my lords, is it possible that so uncandid and illiberal a suspicion—I wish to avoid asperity of language—that a suspicion so ill founded, and injurious to the characters of both the high personages alluded to, should even have entered into the heart of any man in Great Britain. The virtues of the reigning monarch have left him no enemies in any part of his dominions; and it is but common justice to the Prince of Wales, that justice which every one of your lordships would wish, in similar circumstances, to be done to his own son, to place this confidence in the Prince of Wales, that he will have no friends, but the friends of his family and of the constitution. And is it not to fix an opprobrious and, we all know, an undeserved stigma on the character of his Majesty, to say, that on his recovery, he will be sorry to meet in this House, or in any other place, the friends of his family and of the constitution? A distinction, my Lords, has of late years arisen in this kingdom, which I much dislike; it is a distinction not founded in nature, it is big with mischief, and may bring forth civil discord—a distinction into king's friends, and prince's friends. I learned at school, that friendship subsists not *nisi inter pares;* and my situation in civil society is far too humble, to permit me to affect a parity with kings and princes. I have no ambition to be ranked amongst the King's friends, none to be ranked amongst the Prince of Wales's friends; but I have an ambition, I have had it through life, and I shall carry it to my grave with me, it is an ambition to be ranked amongst the friends of the whole House of Brunswick; and why, my Lords? not from any private regard, but because the House of Brunswick is a friend to the civil and religious liberties of mankind; because, if we may augur concerning the future, from an experience of the past, the House of Brunswick will ever continue to be friends to the constitution of this country, as defined and established at the revolution.

It is proposed to confide to the Prince of Wales the high prerogatives of declaring war, and making peace; of entering into foreign treaties, which bind the nation, and must bind the King himself, on his recovery; of directing the operations of the standing army—of appointing to all offices, (the household excepted) civil and military—These and other prerogatives of a similar nature, on a due and discreet use of which every thing that is dear to us as men and citizens depends, are to be entrusted (and the trust we have no reason to think will be misplaced) to the Prince of Wales. Having given so much, where is the wisdom of retaining the rest? Where is the wisdom of depriving the Regent of the ability of rewarding merit, and of enabling his

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ministers to strengthen themselves in administration, by exactly the same means whereby their political competitors will have strengthened themselves, in opposition? My lords, there may be public grounds for this restriction, and considering the characters of those who have been concerned in framing it, it would be uncandid in me to say that there are none; but I must profess that I see none.

But were the public grounds for this limitation more obvious and more extensive than any person will assert them to be; still I could not vote either for the limitation itself, or for the mode of establishing it. No, my lords, never shall it be said of me, that I concurred in violating the constitution of my country, by allowing to the two Houses of Parliament, either the right of legislating, or of suspending, though but for an hour, any portion of the royal prerogative. The established prerogative of the Crown is a part of the common law of the land, and I think the two Houses of Parliament have no more right to suspend the law than the King has; the constitution is violated, let the suspension be made by any power short of that which made the law the complete legislature of the country. If the two Houses can suspend indefinitely, they may abolish perpetually; if they can abolish, as useless to the common safety, one prerogative, why not another; why not all? why may they not come to a resolution, that all the prerogatives of the Crown, and that the King himself, are as useless to the public good, as this House was formerly declared to be by the other?

I know, my lords, it has been said by my enemies, that I am a friend to republican principles; and I question not they will be greedy in embracing this opportunity of saying that I am a friend to prerogative principles. I have hitherto disdained, and I shall continue to disdain, giving a reply to my calumniators of any kind; but I feel it an happiness, and I think it an honour, to declare to this numerous assembly of your lordships, that I am no friend to republican principles, none to prerogative principles, none to aristocratic principles; but a warm, zealous, and determined friend to that equilibrium of the three powers, on the preservation of which depends the conservation of the finest constitution (not perfect, perhaps, either with respect to its civil or ecclesiastical part, for what human thing is perfect?) but yet the finest civil constitution that ever blessed human kind on the surface of the globe. For the preservation of this constitution, I would lay down my life; the expression is a strong one, but the occasion justifies it: for in doing so, I should think that I fulfilled the most important duty of a man and of a citizen; that I performed a service acceptable to the Supreme Being, in contributing to continue to millions, yet unborn, the blessing of the British constitution. With these sentiments concerning the excellence, and with the apprehensions which I now entertain of the violation of the constitution, your lordships will forgive the warmth and the firmness with which I speak.

With respect to the household, he said, that if we followed the cool conclusion of dispassionate reasoning, the most proper mode of proceeding, whether we respected the circumstances of the country, or the state of the civil list itself, would be to extinguish that part of the household which was useless to the King in his present unhappy circumstances, and to save the expense of its establishment. But as it often happens, my lords, in private life, that our feelings are in opposition to our judgment, so has it happened to myself on this occasion. I do feel a reluctance to the abolishing any part of the royal household, whilst there remains any hope of the King's recovery. I wish his Majesty, on his recovery, to feel not the shadowy comfort of seeing the same faces about his person, but the solid comfort of knowing, that his subjects had not, out of a selfish and parsimonious regard to themselves, seized the opportunity of his misfortune, to tarnish the splendour and to diminish the dignity of royalty. But though I wish not the household to be diminished, and though it be useless as to the greatest part of it to the King, I would not have it continue useless to the public—it ought to be transferred to the Regent. The *phaleræ* of royalty are calculated, not merely to captivate the vulgar, but to render the person of the King venerable in the eyes of all, that his office may be executed with greater advantage to the public; subordination is necessary to the very existence of civil society, and whatever has a tendency to preserve it, is a public good. For the same reason that the state is at the expense of adorning the person and situation of the Monarch, by a splendid household, it ought to adorn the person and situation of the Regent; it is not to swell the vanity of either the

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King, or the Regent, that this is done; but to render the chief magistrate respectable in the contemplation of those over whom his magistracy extends. As to the influence which attends the household, it ought not, perhaps, to exist at all; but whilst it is supposed to exist, it certainly ought not to be dissevered from the executive government. But I will not dwell upon this; for I agree with the noble lord who opened the debate, that we ought not to refer to the characters of the great personages whom we may have occasion to allude to; if this was allowable, I would say, that I think so well of the Queen, as to be under no manner of apprehension that she will ever put herself at the head of a party, in opposition to the government of her son.

My lords, I have delivered the real sentiments of my heart, without any respect to party; I am not a party man; this is not a question of party, nor ought it to be considered as such; the question is not whether this or that man shall be the minister of the country—If that had been the question, I would have addressed myself to every independent member of this House; and therefore for the credit of humanity, and for the dignity of the peerage, I would have supposed that I addressed myself to every individual in it, in the language of antient Rome—"Non agitur de publico commodo,—sed utrum Cæsar an Pompeius possideat Rempublicam? Quid tibi, M. Cato, cum ista contentione?" No, my lords, the question is, in what manner shall we maintain, unviolated, the principles of the constitution—protect the dormant rights of the reigning Monarch—do justice to the legal claims, or the reasonable expectations, at least, of the heir apparent—provide for the domestic tranquillity, confirm and extend the foreign importance of the country? As a member of this House, and as a bishop of this realm, I lay my hand upon my heart and say, that, in my judgment, we shall best promote these great ends, by appointing his royal highness the Prince of Wales, heir apparent to the Crown, Regent, with full regal power. However different many of your lordships may be from me in this sentiment, I will conclude with a wish, in which I am certain of being joined by all who hear me, and was the heir apparent himself in the House, I am confident that his piety as a son, that his duty as a subject (of both of which he has on this trying occasion given such exemplary proof), would make him the first to unite with me, in a wish, an hope, a prayer, that a speedy and perfect restoration of the King's health may put an early period to the Regency of the Prince.

The Earl of *Sandwich* said, he might well feel alarmed at rising after so able and so eloquent a speaker as the learned prelate, but he wished to prevent a fourth estate from being introduced into the constitution; and as the learned prelate had not moved any amendment, he would take the liberty of introducing one. The case in question was not, as the Lord President had represented it, that of suffering a tenant in tail to cut down timber, but rather that of planting a tree on the family estate. Great was the injury that must result to the empire, and the damp that would be cast on the ardour of public spirit by restraining the Regent from conferring the honour of the peerage on meritorious persons. He asked whether it was likely, when his Majesty should recover that he would feel uneasy at seeing the most deserving sea officer, the gallant lord Rodney, seated on the ducal bench? He reprobated the conduct of ministers in deserting such a man, and suffering him to sink almost into the earth. He spoke of his Majesty's situation as by no means such as to warrant sanguine expectations, observing, that in the course of his life, he had learnt the bitter lesson of sad experience. He mentioned the resolution agitated some years since, that the power of the Crown had increased, was increasing, and ought to be diminished, declaring, that he had voted against the maxim, being convinced of the contrary; but that now, those who had voted with him against the resolution, were for diminishing the influence of the Crown. He concluded with moving, to add to the motion by way of amendment, the words, "for a time to be limited."

The first resolution was then agreed to, and the second being read, "That the power so to be given to his royal highness the Prince of Wales, shall not extend to the granting of any rank or dignity of the peerage of the realm, to any person whatever, except to his Majesty's royal issue who shall have attained the full age of twenty-one years," the question was put on lord Sandwich's amendment, "for a time to be limited."

Lord *Sydney* contended, that under the circumstances of his Majesty's illness, it

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was impossible to fix any time. The House would be involved in one of the most painful dilemmas, should they agree to limit the restrictions to six or twelve months, and at the end of that time his Majesty, though not recovered, might be on the point of perfect recovery.

The Earl of *Carlisle* reprobated the restrictions, as tending to introduce a feeble government, and a vigorous opposition. He supported the amendment, wishing that some of the evil of the restrictions might be done away by their being limited, but he would not allow, that therefore the restrictions ought to pass. He censured the injustice of suspending the prerogative of creating peers, and declared, that what had fallen from the Lord President, of the parliament bringing in a bill for creating a peer, was a remedy much worse than the disease, and in his opinion highly unconstitutional. The doctrine of the two Houses having the power of creating peers, militated against all that which he had hitherto understood of the principles of the constitution.

The *Lord President* answered, that he did not say the two Houses could create a peer, but that the parliament could create a peer.

The Earl of *Carlisle* considered the explanation to be equally unconstitutional with the original assertion.

The Earl of *Derby* asked whence the Lord President derived his information, that the present ministers were to go out? He must have inferred it from a consciousness that the present administration had treated the Prince of Wales so ill, as to feel themselves unworthy of his confidence. He reprobated the idea of the other House having any participation in the creation of peers, as being highly unconstitutional.

Earl *Fitzwilliam* complained of what they had that day heard from the Lord President, who had stated in argument, that no evil could result from passing the restriction disabling the Regent from creating a peer, because the two Houses could in effect grant a peerage, where the case should be of a nature to render such a dispensing of the honour of nobility necessary. Such sentiments were highly unconstitutional, and he should think it his duty to come forward with a declaration, condemning all such doctrines as repugnant to the principles of the British constitution.

The *Lord President*, after observing that the noble earl, were he to fulfil his intentions, could only vote a truism, restated what he had said, instancing the precedent in the reign of Henry 6, of the act passed to ennoble sir John Cornwall. He said, a variety of instances could be given, of peerages so granted by the authority of parliament, and that a peerage so created, was not, in his opinion, the less valid.

Earl *Fitzwilliam* was now convinced of the necessity of coming forward with the declaration to which he had alluded. His apprehensions were now confirmed by the noble earl's having re-asserted the republican doctrine, that the two Houses were not an unfit channel to canvass for a peerage.

The *Lord President* desired, that if he had loosely stated any point relative to the source of honours, such as a creation to the peerage, no advantage might be taken of any inadvertent *lapsis linguæ*. No man was more convinced than he was, that the Crown, and its spontaneous will was the constitutional source of peerage. In the instance he had stated, the fact was as he had described it; during the minority of Henry 6, sir John Cornwall had been ennobled, in consequence of an act passed to enable the regent to grant the honour. A variety of peerages so created might be adduced, and surely an honour so conferred, whether by the Crown, or by the person exercising the royal authority in behalf of the Crown, was not the worse for the previous advice and consent of both Houses of Parliament.

Earl *Fitzwilliam* said, worse and worse! He must certainly be speaking in a republic, and not in a limited monarchy. The noble earl he had first understood to mean, that the honour in question had been bestowed in consequence of a regular act of parliament, but he now learnt that it was merely at the instance of the two Houses. He was more than ever, therefore, confirmed in the necessity of coming forward with his proposed declaration.

The *Lord President* repeated his doctrine, which was, that honours and rewards were derivable solely from the spontaneous will of the Crown. He was as much an enemy to republican principles as the noble earl. He had never meant to insinuate, that the peerage could fairly and constitutionally originate in a proceeding of the two Houses at their own instance, but at the instance of the

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Regent, intimated through the medium of the two Houses.

Lord *Porchester* said, that the noble earl had broached the unconstitutional doctrine, that the creation of peers depended on the concurrence of the two Houses.

The *Lord President* said, that not a word he had uttered could justify the assertion of the noble peer who spoke last. He had not talked at all of the concurrence of the two Houses, but of an act having passed at the immediate instance of the Regent, signified expressly to be such, which authorized the ennobling sir John Cornwall. He repeated, that abundant instances of peerages created by parliament could be adduced, but desired, if by any loose and unguarded expression, he had been understood to intimate, that it was his opinion that the honour of the peerage could originate in any other source than the pure, spontaneous will of the Crown, or the person exercising the royal authority, he might stand corrected, and be considered as having withdrawn any such expression.

Lord *Porchester* imputed the dangerous doctrines broached that day, and all the unconstitutional opinions advanced one after the other, to the imprudence of the two Houses not having, in the first instance, declared the Prince of Wales Regent. He denied that the present ministers were or ought to be considered as ministers; they were the late servants of the Crown, and at present they were usurpers, who had arrogated to themselves offices, which they had no right to hold, and who clinging to office to the last moment, continued in the exercise of authority, after their trust and powers were at an end; their only object could be to share the spoils of government by providing places, pensions, and sinecures, for their friends and adherents.

Lord *Osborne* [the Marquis of Carmarthen] called the noble lord to order. He was sure the noble lord would forgive him for his interruption, since it would afford him an opportunity of recollecting himself, and he was persuaded, that when he became cool, he would feel the injustice of applying such a term as "usurpers" to those who certainly could not, under the present circumstances, be deemed ministers, but who nevertheless were under the necessity, on a principle of duty and honour, not to leave their offices till such measures had been taken, with the advice and consent of Parliament, as might render it safe for the public that they should quit their very disagreeable situations.

Lord *Porchester* resumed his observations, and enumerated the monstrous evils that had followed from the delay of which the late servants of the Crown had been guilty. Among other enormities, no longer since than Monday last, two men had been butchered by a public execution, at a time when, from there not existing a government, the door of mercy was barred against them. Those unfortunate convicts had been deprived of the opportunity of applying to the fountain of mercy, to obtain either a temporary respite, or a final reprieve. Another circumstance of a similar nature had occurred in Scotland, the particulars of which made his heart bleed. He had heard that two men had been executed there, after it had been intimated to the late servants of the Crown, that one of the witnesses against them, was believed, on no slight authority, to have been the perpetrator of the crime charged upon one of the unhappy men convicted, and who had since suffered.

Lord *Sydney* urged the injustice of bringing such violent allegations against his Majesty's servants in so sudden a manner, and without their being reduced to such a shape as should admit of the parties charged making a regular defence. With regard to the two persons executed in Scotland, they were convicted in consequence of a full and solemn trial; applications had afterwards been made to government, stating, that a witness on one of the trials was charged by the convict with having been guilty of the crime alleged against him, and of the perpetration of which he had been convicted; repeated arrests of execution had been sent down, and, since the trial of the witness in question, the law officers of the Crown in Scotland had signified to government their thorough conviction, that the persons under sentence were, beyond all question, guilty of the crimes for which they had suffered. With regard to the executions in London, the sufferers were two persons convicted of murder, who were, by the authority of a special statute, obliged to be executed within a specified period of time, unless some circumstances had been signified to have come out on their trial to make the interposition of the royal clemency necessary.

Lord *Porchester*, although far from retracting his observations, did not mean to

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exhibit articles of charge against ministers; he had merely imputed the melancholy facts which he had mentioned to the delay which had taken place; and he repeated, that the convicts executed had been butchered, having been debarred the opportunity of applying by petition or otherwise for that mercy, which had there been an existing government, there would have been an opportunity of their applying for. He quoted Judge Blackstone's Commentaries, in which the author states, that so tender and humane is the criminal law of England, that if a convict, after receiving judgment, loses his senses, it it usual to stay the execution, from the idea, that if the prisoner had retained his senses, he might have suggested some plea sufficiently strong to have induced government to mitigate the severity of his sentence.

Lord *Kenyon* said, that it would ill become him to listen with silent indifference to a charge of so serious a nature, and urged with such vehemence against a judge. If the fact were true which the noble lord alleged, it must have been owing to the criminal neglect of one of the judges. He had hoped, therefore, that the learned lord (Loughborough) who sat near the noble lord who had made the charge, as he possibly might have known the fact in question, as far as it referred to the London execution, would have risen and set the noble lord right. If on the trial of a person convicted of a capital crime, circumstances came out, which warranted the judge in supposing that the conviction was founded on erroneous principles, it was his duty to respite the convict. If, therefore, any favourable circumstances had appeared on the trial of the two persons executed on Monday, it was the duty of the judge who tried the criminals to have respited them; and if he neglected this duty, the men had not been butchered, but murdered, which was, in the contemplation of law, a much higher offence; and the judge who had been guilty of such an act of criminal neglect, instead of being suffered to go in state to Westminster Hall the next morning, ought to have been seized in his fur robes, dragged from the seat of justice, and hurried to that dungeon in which the two unfortunate sufferers had lingered their last hours of existence. Under this conviction, he called upon the noble lord to make good his charge, to put the parties accused upon their trials, and to bring the guilty persons to condign punishment.

Lord *Porchester* begged leave to remind the learned lord, that he had not advanced any charge against a judge. He had not known, when he first spoke, the name of the judge who tried the criminals convicted at the Old Bailey. He had that moment learnt that the judge was his own relation, and a man for whom he entertained a sincere respect; but that altered not the truth. He mentioned the facts, as proofs of the evils that had resulted from the delay in restoring the sovereign authority, and though he believed the persons executed to have deserved their deaths, and knew that two of them were executed in conformity to an express statute, he should, nevertheless, contend, that they were deprived of that chance of mercy, which the constitution allowed all convicts.

Lord *Loughborough* lamented that the learned lord should have ascribed to him an inattention, the imputation of which must necessarily have given him pain. Had he heard any thing that tended, in the smallest degree, to impeach the integrity of the judges, he should have desired that the imputation might have been reduced to a shape capable of being combated. But he had heard nothing like this; a noble lord, speaking plainly on the evils resulting from the present conjuncture of affairs, had stated, that certain convicts had been debarred the opportunity of appealing to the best attribute of the throne, and of soliciting that clemency which was the peculiar ornament and glory of the Crown. With regard to the supposed imputation on the judges, he denied that any existed. A judge might try a prisoner, pass the sentence of the law upon him (which undoubtedly, was the sentence of the law, and not the sentence of the judge), and not feel himself warranted to make a report in his favour. When he said this, he spoke from his own experience; it had happened to him, that he had tried prisoners; they had been capitally convicted; he had carefully revised all the circumstances of their trial, and not being able to discover a single reason to justify a report in their favour, he had reported that he could not think himself warranted in recommending them to mercy. He had done this, and, nevertheless, mercy had been more than once extended to persons of that description, and, he verily believed, on a fair and

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proper principle. He particularly recollected a case in Norfolk, where four prisoners had been capitally convicted, and he had not, upon the most scrupulous revision of the trial, discovered to his own conviction any difference in their cases, separately considered, which appeared to him to warrant his reporting of one more favourably than of another; and yet it happened, that the royal mercy was extended to one of them, and he thought very fairly; it having been considered, that it was possible that one out of the four might be saved, without injury to the effect of the law. In stating these facts, he did not hesitate in the least to risk his own character for humanity as a judge. He had always held it to be more humane, as well for the example of others, as for the enforcement of the object and intention of the penal statutes, where the guilt was evident and glaring, rather to let the law take its course, than by a mistaken lenity, to multiply offenders, and accumulate the sacrifices at the shrine of what was falsely considered the sanguinary spirit of our criminal laws.—The learned lord next adverted to what had passed relative to a peerage being created by the authority of an act of parliament. He showed the mischief of encouraging any such idea to obtain ground, and urged the danger of its admission as a doctrine authorized even by the sanction of an individual peer of parliament delivered in debate, reminding their lordships, that, although admitting the Lord President's doctrine in its fullest extent, a Peerage Bill might originate in a message delivered either at the instance of the Crown, or at the instance of the Regent, nevertheless the House of Commons would immediately be let into their share of creating a peer, the honour of the peerage would be put to the vote, and thence a most unparliamentary interference of the other House with the constitution of that House, would be established; a doctrine too monstrous to be permitted for a single moment! He hoped the noble earl would, by a full disavowal of the doctrine, render his noble friend's intended appeal to the House unnecessary. The use and advantage resulting from the power of creating peers remaining entire, free, and unrestrained, in the hands of the executive government, was an incentive to public spirit and public virtue; and their lordships might recollect the ancient mythological fable, representing the temple of honour as placed behind the temple of virtue, meaning thereby to inculcate the doctrine, that all who obtained admission to the latter must necessarily pass through the former, since it was supposed that no person could deserve honour, who had not manifested proofs of virtue.

The *Lord President* said, he should be much concerned, if he had not made what he meant intelligible by his explanations, and if he had not rescued himself from all possible imputation of either broaching or maintaining an unconstitutional doctrine. He therefore begged leave to re-assert, that he had not entertained the most distant idea of laying down positions repugnant to the ideas which the constitution supported, respecting the creation of peers, and if any words which had fallen from him warranted such a supposition, he begged to be understood as having retracted every syllable of such a nature.

Earl *Fitzwilliam* considered this full disavowal of a most unconstitutional doctrine, as at once candid and satisfactory.

The *Lord Chancellor* professed himself to have entertained a wish, that instead of answering the argument of the noble earl, who had threatened to introduce an abstract proposition, and call upon the House to vote a truism, the noble and learned earl would have challenged the noble earl to have come forward with his proposition, and take the sense of the House. The noble and learned earl was right in his argument; it was indisputable that peers had been created by the authority of parliament. In point of fact, in a certain period of our history, peers were as often created that way, as any other. With regard to the noble lord who had charged ministers with usurpation, and had talked of the butchery of certain convicts who had suffered the sentence of the law, he imputed much of the violence of that noble lord's charges against ministers to the natural warmth of his temper, which would not allow him to reflect on the injustice of suddenly and loosely urging an accusation against men, whose characters for integrity, rectitude, and a faithful discharge of the duties of their office, were as dear to them as any principle of action on which the noble lord might pride himself. Let the noble lord recollect, that a charge of having suffered men to be butchered, was of that sort to which no human breast could submit, and that he, and every other man, standing in a public and responsible situation, must necessarily feel

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that such a charge ought not to be slightly urged. If the noble lord thought himself in possession of any fact to ground either of his charges upon, let him come forward and state them. But the noble lord ought to state them specifically and in form; let the noble lord attack him like a man, and he would answer it as a man; but he ought not to be expected to sit silent, and bear himself arraigned in the grossest manner, without endeavouring at least to repel the blow.

Viscount *Stormont* stated his sentiments respecting the restriction as to the peerage, and the amendment moved by the noble earl. He declared he would support the latter, though he by no means approved of the restriction itself, which he thought came with a very ill grace from those, who had exercised the power of the prerogative with a liberal hand, and thence held out to the world, that in their opinion, at least, the power of making peers was essential to the existence of a good government. In the course of five years, the present administration had created 42 peers. Calling his Majesty's reign therefore, 25 years, in that period, if the prerogative of making peers had been exercised in proportion to the ratio of the last five years, no less than 240 peers would have been created in the present reign; which was a tolerably large quota for the present reign. Viscount Stormont argued the great necessity for this prerogative of the Crown to be freely exercised, and appealed to the House whether, if the power in question had not been exercised during the last ten years, the country would not have suffered many inconveniences. Among other material losses which that House in particular would have sustained, it would not have enjoyed the advantage of the presence and abilities of the two noble and learned lords who had just spoken. Nay, since the discussion of the question respecting the regency, they had lost two persons of great character and consequence in the country, lord Grantley, and the late Speaker of the House of Commons, and it was impossible to say, what farther ravages the fell tyrant, whose irresistible power they must all one day submit to, whether crowned or not, might make among them. At present, there were not more than five noble and learned lords, members of that House, who usually attended. No one of those five [lords Camden, Bathurst, Thurlow, Loughborough, and Kenyon] could render his natural existence, like his reputation, immortal; it was impossible, therefore, to say how soon their lordships might be deprived of the benefit of their assistance. Should such an unfortunate event take place, and the Regent be deprived of the power of adding to the peerage, to what a situation would that House be reduced! In what a lamentable condition would the property of the kingdom stand! Causes of appeal of infinite importance, involving questions of great legal subtlety, might come before them, and surely none of their lordships would say, that the issue of appeals of that description ought to rest on the decision of integrity alone. The assistance of peers of professional knowledge was clearly indispensable; and yet from the case he had put, their lordships would see, that if the restriction, disabling the Regent from making peers, were adopted, without its being, as the amendment proposed, confined to a limited time, they would be exposed to the chance of being deprived of such very necessary assistance. Great indeed, was the necessity of preserving the whole chain of sovereign authority entire. The first link ought to be fastened to the foot of the throne, and proceed regularly, link by link to its termination. Let them beware how they shut the door upon the power of creating peers. The door once locked, they would no longer have the key in their possession, nor would it be in their power to obtain it again. He reminded their lordships of the pride and vanity natural to human nature, and thence argued against their own weakness, which might induce them to resist any attempt hereafter to restore that branch of the prerogative. He reminded them of the Regency Bill that had been introduced in the reign of George 1, and recapitulated all the circumstances of it, observing that the minister of that day, who was undoubtedly a man of ability, stood upon the baneful ground of introducing dissention into the royal family, and poisoning the ear of the sovereign against the heir apparent. He afterwards cautioned the Committee against consenting to take from the Regent any part of the royal prerogatives, contending, that as his government, from the uncertainty of its duration, and its want of permanency, would unavoidably be weaker than that of the Crown, it ought to have the benefit of being armed and fortified with every power granted to the

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Crown in aid of its executive authority, and asserting, that if it were insisted on, that powers were given to the Crown that were not absolutely necessary to the government of the Regent, the plain inference must be, that more powers were possessed by the Crown than were absolutely necessary, and all such superabundant powers, every man would admit, must be mischievous and ought not to remain a moment longer. He took occasion to allude to the conduct of Richard duke of York, of whom they had heard so much before, who in the character of guardian of the kingdom, during the infirmity of Henry 6, put the Great Seal to a commission issued in the name of the king, purporting to authorize the levying of troops to proceed against the traitors, which traitors, so described, were no other than the Queen herself, and all those who had, from principles of loyalty, ventured to support the sinking cause of Henry 6. This he instanced as a proof of the dangerous abuses that might be grounded on a fiction of law representing the king's authority, and in confirmation of it, he mentioned that a similar commission had been issued in France, in the name of the queen of Henry 3, of that kingdom, by the young duke of Guines, who, in his early career, affected to have the support of the government, for his object in taking up arms, but who ultimately endeavoured to ruin the interests of the best monarch that ever sat upon the throne of France, Henry 4.

The *Lord Chancellor* said, that he concurred completely with the noble viscount in the position which he laid down with so laudable an emphasis, namely, that the man who endeavoured to sow dissentions in the royal family, and to set the different branches at variance, deserved the execration of his country, and acted with a degree of baseness beyond any other species of human depravity. He trusted, however, from the little he had been able to see of the royal circle, that there was no probability of any such event as a disunion in the family taking place, and therefore he hoped, that instead of attempting to insinuate that her Majesty's holding the patronage of the household was likely to operate to the disadvantage of the government of the Regent, it would be insisted, on all hands, as more likely to be exercised to its strength and its advantage. He declared he felt what had fallen from a noble earl, early in the debate, as the most handsome thing that had been said upon the subject in the course of the discussions relative to the Regency. He alluded to the noble earl's emphatical declaration, that he was most perfectly convinced, that the patronage of the royal household was not likely to be exercised by the exalted personage, in whose hands the resolutions went to place it, to the disadvantage of the Prince Regent, her son. That was the true point of view to regard it in, and, for the peace and quiet of the country, it ought to be so argued.—Amiable was the conduct of the Prince of Wales; and to such a mother he could not but act with every possible tenderness and regard. He was proud to confess, that he thought the House highly obliged to the Prince for having set the question of right, which had accidentally been started, and, he verily believed, without any serious intention of insisting on it, completely at rest, by the very explicit and satisfactory message, which they had all heard delivered with so much propriety and force in that House. For that, they were already indebted to his Royal Highness, and he trusted they should be still farther indebted for various instances of good sense, and proper regard to what concerned the quiet and interest of the public.—The Chancellor then proceeded to notice some of the arguments that had fallen from noble lords who had spoken against the question. He began with declaring, that he had not perfectly understood the logical definition of right, as stated in two different ways by a learned prelate. The learned prelate had quoted Grotius as stating the right of any man to be "his moral right to possess himself of any thing conformable to law." Now, this definition could not apply to the Regency; such an office as that of a regent not being recognised by any part of the common, or of the statute law, and, consequently, no analogy of law could be brought to bear upon it; nor indeed, did Grotius mean to refer to any such matter, but to refer solely to a right existing in a state of nature. The other definition which the learned prelate had quoted from a different authority than that of Grotius, viz. "a moral right to possess any thing consistently with law," warranted not the inference that the learned prelate had drawn from it; since, if it could it deemed a fair argument to say that the Prince of Wales had a right to the Regency, because it it was not inconsistent with any known

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law for him to possess it, it might with equal fairness be urged, that the learned prelate had as good a right to it, upon the very same ground of reasoning. The learned prelate had also argued, that his Majesty having been by infirmity rendered incapable of exercising his political capacity, was to be considered, during the continuance of such incapacity, as having undergone a natural demise, and therefore to be in a state of temporary natural demise. Against this position, he should contend, that it was the clear language of law and the constitution, that nothing but the death of the king could be deemed the natural demise of the sovereign. He next proceeded to show, that by a subsequent part of the bishop of Landaff's speech, the learned prelate had forgotten what he had said of the temporary natural demise of the King, and had reasoned upon his natural and political capacity remaining; he meant, he said, where the learned prelate had suggested the plan which he thought the two Houses ought to have pursued, namely, that of calling upon the Prince to act legislatively in the name of his father. All commissions and instruments of authority would, in that case, necessarily have the Great Seal of England annexed to them, and they would, he supposed, run of course in the name of George 3, which would be absurd if the King could be supposed to have undergone a temporary natural demise. He reminded lord Stormont, that the precedents of Henry 6th's reign were not, it was evident, thought equally ill of, as the noble lord imagined, in all parts of the country, since the learned prelate had so heartily approved of the transactions on the death of Henry 5, that he had declared that he wished the whole precedent had been gone upon. The learned prelate was mistaken in supposing the case of the minority of Henry 6, and our present situation to be at all similar. When Henry 6 became king, there was no parliament, no judges, no sheriffs, nor any other officer to carry on the law, or the public business; whereas now there was a parliament existing, regularly convened, and in full force. The administration of justice proceeded, and the proper officers were capable of executing their respective functions. The Chancellor here stated the transactions which took place on the accession of Henry 6, of the Chancellor's carrying the Great Seal to him in his cradle, and the duke of Gloucester's delivery of it to the then Master of the Rolls. He also said, that notwithstanding so much had been urged against the precedents afforded by the reign of Henry 6, lord chief justice Hale relied on them as good authorities for most of the fundamental principles of our constitution. He owned, he did not dislike the idea suggested by the bishop of Landaff, and observed that something might, in future, be made of it.—He denied that all the powers and prerogatives of the Crown could be necessary for the Regent, and contended that it was their duty to reserve something to mark the rank and dignity of the King's person, who ought not to be stripped of every rag and symbol of royalty. He commended the independent spirit of lord Fauconberg, that had induced him to repel the idea of the Lords of the Bedchamber being at the back of the minister for the time being; but he had been a little surprised that the noble lord should have so far mistaken the Lord President, as not to have seen that the drift of the noble earl's argument had been to rescue the Lords of the Bedchamber from the calumny cast on them elsewhere. When the noble viscount had talked of taking power from the Regent, he was perfectly at a loss how to understand the phrase. Where was it to be found that there had existed any such officer as a regent; or, if it could be found that there had existed any such office, how were its powers defined? He denied that there ever had existed in the contemplation of law such a thing as a regent. He had heard of king's lieutenants, guardians of the realm, and protectors, but never before of a regent; and, consequently, a regent could possess no other power than the two Houses chose to bestow. He argued against there existing a necessity for the Regent to have a power to make peers, and maintained, that more real influence would result to the Regent's government, from their having the power to make expectants, than could possibly be the case, were they to be enabled immediately to make peers. He said, that he knew but of two modes of making a peer; the one, of summoning persons to that House by writ, or creating peers by patent, both of which were necessarily inherent in the Crown, as the fountain of honour, and could not with safety be lodged in other hands; nor ought they, at any time, to be put in trust for the Crown, unless in case of absolute necessity, and no such case

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would be pretended to exist at present. With regard to the amendment, he admitted that the restrictions must, in their nature, be temporary; but the difficulty lay in the positive uncertainty to what time the king's recovery might be delayed; to declare, therefore, generally, that they should continue only for a time to be limited, was by no means removing the difficulty. Whenever his Majesty's physicians should, unfortunately, pronounce his Majesty's malady to be so confirmed by continuance, that his cure was, in their opinions, either impossible or highly improbable, he should then think the operation of the restrictions ought to cease and determine, and parliament would, at all times, have it in its power to make the provisions necessary for this purpose. With regard to the risk of leaving the removal of the restrictions to future contingencies, he had full confidence in the honour and independence of that House, and he did not doubt but that when the fit time for taking off the restrictions should arrive, that House would willingly co-operate with the other estates of the realm in putting a legal end to their duration.—The Lord Chancellor denied that any person who had acted as guardian of the realm, or protector, had ever possessed the full exercise of the royal prerogatives, that self-constituted regent Richard 3, alone excepted. He also justified what had been deemed a fiction of law, and ridiculed as such, declaring it to be the only constitutional mode of proceeding that could be resorted to, and remarking that, if the restrictions proposed were objected against, he should expect to hear what trick those who opposed them, would advise the adoption of, as a more safe mode of proceeding, in a case so difficult and embarrassing.

The question was put on the Amendment; when the Committee divided: Contents, 67; Not-contents, 93. The Committee afterwards divided on the main question; Contents 92; Not-contents, 64.

Jan. 23. Their lordships went into a Committee on the State of the Nation, and proceeded with the adjourned debate on the Resolutions from the Commons. Lord Walsingham took the chair.

The third resolution was then read, viz. restricting his royal highness the Prince of Wales, from the power of allowing any grant, reversion, patent place, or annuity for life.

Viscount *Stormont* said, that, conceiving the same reasons to operate against this restriction, which had been so fully urged against the former, he would not trouble their lordships with one word of argument, but content himself with moving the same amendment, namely, that it be limited with regard to time.

Lord *Cathcart* rose to state the grounds on which he had formed his opinion on the present question. He made a distinction between the government of a king and that of a regent, and argued, that to the former the attribute of absolute perfection was necessarily given, but not to the latter. He enumerated the various prerogatives of the Crown, and endeavoured to show, that the powers intended to be given to the Regent, were all that were necessary for the purposes of a delegated and temporary government, and that those intended to be withheld were not necessary, but such as the King alone in his own personal, as well as his political capacity, ought to exercise. On a former day, it had been declared, that the subject should be met fairly and fully. This led him to some rumours he had heard of the purchasing of newspapers, by certain persons, who, supposing that the popularity of the present minister had originated in a great measure from the newspapers, were willing to establish their own by the same means. Men had certainly a right to lay out their money in whatever species of property they pleased; but he apprehended, that if the public found the prosperity of the nation increase, and the value of the funds in no danger of being diminished, they would not look to newspapers for the popularity of any minister. Was there any one weak enough to suppose, that the popularity of the Regent, of the most accomplished prince the universe could boast of, would depend on newspapers? Those who had stated certain doctrines of so dangerous a tendency as to alarm the minds of all men, had given him the most effectual means of increasing his popularity. By such doctrines, a prince whose mind was weaker, and his reverence for the constitution less inviolable, might have been induced to depart from that line of moderation which had been the guide of his conduct; but he had taken the earliest opportunity of quieting the general alarm, by an intimation the most gracious. When that intimation was made known to the public, the universal exclamation must have been, "God bless the Prince of Wales!"

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Lord *Rawdon* said, that their lordships had been called together in consequence of a calamity which occasioned the suspension of the powers of the Crown and the executive government, to deliberate on the best means of renewing those powers, and restoring the activity of that government. In doing this, what principles had they been convened to renew? Were they to question the extent of the royal authority, or to discuss what part of it was necessary for the good of the public, or what was needless? If so, they ought to come at once to an investigation. In times when indefeasible hereditary right was the doctrine of government, when the powers of the prerogative were considered as the birth-right of the possessor for his own advantage, not for the benefit of the public, every encroachment on the Crown was so much gained to the community. In the various contentions between the Crown and a powerful nobility, the assistance of the people had been called for, sometimes by one party, sometimes by the other; and, in general, something had been gained for themselves. But the people ought to remember, that when their assistance shall be no longer wanted to protect the higher powers against the Crown, they will no longer be protected by the higher powers. If the Crown possessed prerogatives which were not necessary to the purposes of government, those prerogatives ought to be taken away. At the Revolution, all the restrictions were made that could be made consistently with the public welfare. The powers then given had been often re-considered since, and were not only confirmed by general consent, but sanctioned by experience, and could not be altered without the same national consent which gave them. When the misgovernment of James 2 obliged the Convention Parliament to assume the whole powers of government, they presumed that the national consent compelled them to do so by the necessity of the case; and they prevented an opposition to the new settlement by actual force. A subsequent parliament, chosen by the free suffrage of the public, gave the fiat of the people; and it ought not now to be altered, without the same fiat. Would any one say, that there was at present such a dissolution of government as authorized their lordships to alter and new mould the constitution? If there was, they were not to alter it. They were no longer peers of parliament, but must mix with the general mass of the people. Every body of men in the kingdom, of equal number, had equal authority, and a greater number would have greater authority. If there was a devolution of the executive power on the two remaining branches of the legislature, they were not to act on caprice; there were certain specific grounds established by the constitution on which they were bound to proceed. If they altered the powers of the prerogative, if they took away one and retained another, they would sanction the views of the first ambitious and designing man who should appear to take advantage of the precedent which they had set. Against the doctrine of the noble lord, that there were certain powers to be given to a king, and certain powers to a regent, he must beg leave to contend, that the kingly office was precise and indivisible, without any reference to the person by whom it was exercised.—He disapproved of the manner in which the great officers of the household had been mentioned, and professed his firm persuasion, that none of those noble lords were biassed in their political conduct from the offices which they held. But, would the withholding the patronage of the household from the Regent, facilitate the re-assumption of the government by the sovereign! Were the Prince of Wales to forget his filial duty, to renounce all those virtues which adorned and dignified his character, and to endeavour to prevent that re-assumption, would the patronage of the household ensure him success? Would a vote of parliament prevent the return of a beloved monarch to the throne, to which he would be called by the unanimous voice of an affectionate people, to whom parliament itself was responsible? Neither the virtues of the Queen, nor of the Prince of Wales, were the grounds on which the question was to be argued; and he lamented that the names of those exalted personages had been so frequently introduced into the debate. But if the question was to be argued on the abstract grounds of justice and policy on one side, it was perfectly fair to require that it should be argued on the same grounds on the other. If to guard against the frailty of human nature was the object, let them see on which side that frailty was exposed to the greater temptation. The Prince of Wales would be called only a little before his time to the exercise of that authority which must one day become his right. He would be placed in no unexpected

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situation, to which his mind had not been accustomed to look forward. It was, therefore, not likely that the impression which the temporary enjoyment of power made upon him would be great, or that he would be strongly tempted to retain longer than was necessary what he knew must finally descend to him again. The Queen, unaccustomed to any political influence, knowing that, by the constitution of the country, she could never possess any under other circumstances, would be placed in a situation equally new and unexpected. The impression it made on her would be proportionally strong, and the temptation to retain what, when once given up, could never be recovered, was proportionably great. The last resolution provided a council of advice; and before their lordships agreed to that proposition, it ought to be stated of whom that council was to be composed.

Lord *Osborne* acknowledged, that the regal powers were intrusted to the King for the benefit of the people, but he contended, that from thence it did not follow, that when the Monarch was, by a temporary indisposition, rendered incapable of the exercise of his sovereign powers, they should devolve to another, and that the person appointed to the exercise of the sovereign authority, should be vested with all the powers of the Crown. He could not agree, that the constitution was injured by the restrictions, because they restrained the powers of the Crown; on the contrary, he regarded them not only as strictly proper, but perfectly constitutional. He considered the Queen as the fittest person to have the care of the King and the direction of the household. He would not for a moment entertain an idea that the patronage proposed to be intrusted to her Majesty, in the care of the Sovereign, would ever be exercised against her son's government. What opposing interest could there be? In what did the interest of the Queen and the interest of the Prince differ? They had one general, one united interest, and they could not oppose each other's interest, without injuring the interest which was common to both parties. With respect to the council of advice, that would be explained by the Bill to be brought in. The continuance of the whole household ought to remain under the direction of the Queen; if it was taken out of her hands, it would be adding insult to affliction. As to the present Lords of the Bedchamber, he was sure that they were men of strict honour, and far above the reach of influence.

Marquis *Townshend* said, that ministers would be highly reprehensible, if they loaded the country with an additional expense to support the state of the Regent, when the present established household would serve both to attend upon his Majesty and the Regent. All the domestics, up as high as the Grooms of the Chamber, might wait on his Majesty, while the Lords with white staves, and all the higher officers, who could not now be upon any duty about his Majesty's person, might attend the Regent, and make a part of his state and splendour. He spoke also of the military establishments at St. James's, the yeomen of the guard, and gentlemen pensioners, and asked of what use were they at this time? Were they left in an empty palace to guard the old tapestry? Why were they not placed under the Regent? Dr. Willis, he was persuaded, did not want a reinforcement of such assistants.

The Duke of *Chandos* approved of the resolution, and disliked the amendment. He lamented the illness of the Sovereign, with whom he had lived in habits of respectful acquaintance for forty years. He assured their lordships, that he would much rather deliver up his office, which he was ready to do, than be suspected of being influenced by it in his vote: the emoluments of it were what he least considered; he had never connected himself with any administration from the time he had first come into that House to the present moment. He had supported the present administration from principle, and he knew them to be an administration which had rendered the greatest services to their country. The duke, parodying what Mr. Pitt's father had said of general Wolfe, pronounced the present Chancellor of the Exchequer a heaven-born minister.

The question being put on the amendment, the same was rejected, and the resolution, as it originally stood, was agreed to. The resolution respecting the King's personal property being read,

Lord *Loughborough* objected to it, as totally useless and nugatory, because the King's personal property was already amply secured by statute.

Lord *Kenyon* said, it was true that all the property which the King held *jure coronæ* was secured by statute; but the object of the resolution went farther; it consisted with his knowledge that his Majesty

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held a copyhold estate in the neighbourhood of Richmond; and surely the learned lord would not say that it was secured by statute.

Lord *Loughborough* replied, that as the whole of his Majesty's property was secured by the Civil-list Act of queen Anne, he could not but consider it as highly disrespectful to the Prince of Wales to suppose that he would lay his hands on a little copyhold estate, which formed a part of Kew Garden.

The *Lord Chancellor* declared, that if he were to consider the restrictions on the ground of necessity of providing against the Prince of Wales, he should give his vote against them all; for, he was so confident of the goodness of his Royal Highness's heart, that were he to be entrusted with the most unlimited power, no danger of an ill use of it might be expected. He begged their lordships to remember, that in the discharge of their duty, they were not to consider of any respect due to this or to that person, but to decide as the occasion required. They were to consider the resolution as applicable to a prince of Wales, and to persons in general; they were to give to the new office to be appointed all essential powers, and no more than were essential. He did not suppose that any persons who might be about his Royal Highness would advise him to alter the real property of his father; he did not believe that if he was so advised, he would follow the advice; nor did he believe he would do it of his own will; but notwithstanding he had so high an opinion of his Royal Highness, he felt it his duty to put every consideration of personal respect out of the case, and yield to the indispensable necessity for the resolution.

Lord *Loughborough* said, that the restriction was a most unwarrantable reflection upon the Prince, insinuating, that unless he was restricted, he would dispose of his father's property. It was considered as a libel, if any person sent to another the commandment out of Holy Writ, "Thou shalt not steal," as it implied, that the person to whom it was sent was a thief; seeing the restriction in that light, he should strenuously resist it.

The question was then put upon the resolution, and carried without a division. The fifth resolution, intrusting to her Majesty the custody of the King's person, and the control and management of the household, was next read.

Lord *Rawdon* rose for the purpose of dividing the motion, into three distinct propositions, and appealed to the chairman for information what sort of motion he ought to make, to answer his purpose.

Lord *Loughborough* expressed his fears, that if the whole proposition were put together, it would perplex their lordships, because there might be some noble lords who would vote for one part, and some for the first and last, leaving out the middle, that which gave her Majesty the power of removing and appointing officers.

Earl *Bathurst* contended that, as it was a resolution sent up by the Commons, their lordships could not divide it. The only question they could put was, to move, "That the Committee do agree to this resolution of the House of Commons," and then any noble lord who wished to get rid of any part of it, might move, by way of amendment, to leave out such and such words.

Lord *Rawdon* moved that the question be divided.

Lord *Loughborough* said, it was neither fair nor candid to oblige any noble lord to vote for the three propositions connected together. Perhaps, no person would object to the first proposition, for committing the care of his Majesty's person to the Queen, but many might object to the second part, and be extremely averse to putting the patronage of the household into her hands, from a persuasion that it ought to go along with the other patronage annexed to government.

The *Lord Chancellor* said that, for his part, he was ready to take it as a clear proposition, that the first and second propositions went together, and that the third naturally followed the two former. If any person thought the three parts were single and separate propositions, he might take the means of separating them, but he could not do it by a motion to divide the question. It had fallen to his lot to have read a considerable part of the Journals of both Houses, and a motion to divide the question was perfectly new to him, the regular question always being, "That these words stand part of the question."

Marquis *Townshend* said, he wished to vote for one part, but not for another.

Lord *Loughborough* thought it a fair proposition, that a complex question should be divided.

The *Lord Chancellor* declared, that it was far beyond his power to form the

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least conjecture as to the grounds upon which noble lords conceived it possible for the King to be placed in the hands of her Majesty, without giving her the superintendance and control of the household. His opinion was, that all which belonged to the household must at the same time, with the care of the King's person, be put under her Majesty's control and management. There was no other way of preserving the King's dignity, but keeping him with all his royal attendants about him. If they separated the resolution, they might as well proceed to treat the King as an ordinary individual, and put him on board wages, or send him to one of those boarding-houses that take in unfortunate people. If they meant to abandon his Majesty in his present bereaved situation, let them act in that manner, and that, indeed, would be the only manner to make shift without the royal household going to the Queen, and then it would prove in vain for that and the other House to lose their time in inventing the means of preserving the rights of their sovereign, and restoring him to his former power and splendor; because they could never expect a cure. Let the Committee remember, that the Queen was to have the care of her royal patient, not as a wretched being, destitute of friends; an obscure individual, without name, without honour, without reputation, forsaken by all the world; but as a king, whom his people looked up to with loyalty and with affection, and with anxious wishes that he might soon be enabled to re-ascend his throne, and again distribute blessings on his grateful subjects. As far as his voice could go, and he should lift it up loudly and sincerely, he claimed for the King all the dignity that ought to attend a royal person who was sick, and who was entitled to every comfort that could be administered to him in the hour of his calamity. And who should dare to refuse his request? It would, it ought, and it must mortify the Queen, were she to perceive the King deprived of all the dignity that surrounded him, and turned over to her in an unfeeling and irreverend manner, destitute of attendance, destitute of every mark and token of royal greatness. How must a wife of her Majesty's description receive a husband, under whose beloved shade she had for many years been protected and made happy? Was there a man who heard him, who possessed the sensibility common to every human breast, who did not sympathize with her Majesty's situation? He had heard, indeed, that doubts had been entertained with respect to the dignity that ought to surround his Majesty's person; but no man alive to the least sense of loyalty, alive to a principle of compassion, alive to any one generous feeling, could surely venture so far to forget what was due to their suffering monarch, as to separate the second from the former part of the resolution. He protested to God, that he did not believe there was a noble lord in the House who wished to strip his Majesty of every mark of royalty, and reduce the King to an abject and forlorn situation, while he was labouring under a misfortune equal to any misfortune that had ever happened, since misfortune was known in the world. The intention of separating the second from the first part of the proposition, was cruel in the extreme. It must operate like a total extinction of pity for that royal sufferer, whose calamity entitled him to the most unlimited compassion, and even to increased respect.

" Deserted in his utmost need
" By those his former bounty fed!

The obvious feelings of mankind went so directly to the wish of paying every mark of reverence, respect, and attention to the Sovereign in the hour of his misery, that he was persuaded the public would be shocked at the idea of that Committee persisting for a moment to hesitate, whether the King should be attended with the royal household or not. He desired not to be understood as intending, either by his argument, or the warmth with which his zeal had impelled him to deliver it, to preclude debate or bear hard upon those who had intimated a wish to separate the motion. Every awful, every indispensable consideration, whether arising from loyalty, gratitude, esteem, or affection, must make all good minds shudder at the idea of perceiving such a king in such a situation. He had not spoken with this view, but from feelings, an exemption from which must have rendered him hateful to himself.

Lord *Rawdon* said, that as the remarks of the learned lord were so pointedly alluded to him, he could not avoid declaring that he had listened to them with the utmost concern, nor help ascribing the violent tone and gesture in which the learned lord had delivered himself, entirely to the intemperance of his zeal.

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There was not in that House any noble lord who felt greater gratitude to the Sovereign than he did, or one who would be more ready to convince him of his zeal to serve him, should Providence permit him to resume his royal functions. But what had he done to provoke the singular mode in which the learned lord had expressed himself? Abstractedly from all motives of faction or party, he had appealed to the House, on the suggestion of his own mind, and barely on the principles of convenience. Ought he to stand exposed to an immediate attack, and to hear it insinuated that he had acted in an irreverend manner? The expression, it was true, had been retracted as soon as it had been made; but he must contend, that it ought not to have been used at all, and he must inform the learned lord, that he would be allowed the same credit for candour in that House that he had at all times given the learned lord. In the farther discussion of the subject, he must request that the passions might not be appealed to; and he claimed for himself that same sentiment of respect towards his Majesty, which the learned lord had laid claim to. Although not meaning to intimate that it might be improper to make any other provision, yet, in his opinion, he considered it his duty, to move, to leave out the second part of the motion.

The *Lord Chancellor* denied that he had retracted a syllable, because he was persuaded he had not said a syllable that he had any occasion to retract. He declared he would repeat what he had said when last on his legs, addressing it as he had done before to the House at large, and not to any individual lord. He reasserted his opinion, that the Committee would shamefully neglect their duty, and leave the King in that destitute and wretched situation that he had described, if they separated the second part of the resolution from the first.

Viscount *Stormont* said, that he could not avoid considering the pointed quotation of the learned lord as peculiarly addressed to himself. He had indeed, he owned, enjoyed the highest honours, and passed the most considerable part of his life in possession of the greatest emoluments from his Majesty; and therefore he might be supposed to have been one who came under that description, and had shared the royal bounty. But those honours and those emoluments were not, he conceived, now repaid with ingratitude. He would say with the noble Secretary of State, he loved his Majesty, he loved the Prince of Wales, but he loved more the constitution. He begged their lordships to consider what might be the consequence of the division of power proposed. There might be competition, and sparks might arise which would kindle into a flame. He instanced the case of cardinal Richlieu, who ingratiated himself with the mother queen, and caused a variance between her and her son. The person entrusted with the King's custody, ought not to have the disposal of his household. It was cruel to throw her Majesty upon a sea of politics without a rudder, chart, or compass. He next adverted to the famous bill to diminish the influence of the Crown, and said, that he thought the premises unfounded; but allowing the premises, the conclusion was irresistible: if those powers were unnecessary, take them away. If those whose general opinion was to support the administration, be it what it might, were willing to consent, in this instance, to so much patronage being taken from the Crown as that of which it was now about to be deprived, they were guilty of a monstrous solecism in politics. Persons who accepted places ought to quit them, and not enter into a systematic opposition, because that would be turning into the bowels of government what was meant for its defence. Though personal distinctions were disclaimed, gentlemen had sometimes relied upon them, and it had been asked whether the division of power between a mother and a son would not tend to produce bad consequences? Scarcely a single instance in history had occurred of power being divided between a mother and a son from which mischief had not ensued. The Queen might have ill advisers. They might persuade her that she could not render a greater service to her son and to the country, than by attempting to rescue the Prince himself from such pernicious hands as those in which he placed his confidence. Nothing could strengthen the opposition like a weak government, and from the intended division of power he expected to see the standard of opposition erected in the center of the Queen's palace. It was asked, will you leave the King in that miserable destitute situation, without his household officers? Gentlemen had raised a shadow, had given it an hideous form, and combated the shadow which they had raised. Those officers were attendant on the King only

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when he was the representative of Majesty. Would it not seem taunting to attempt to sustain such an idea at the present moment? Would not the places of the household officers be mere sinecures? The question therefore was, whether the dignity of his Majesty would not be better kept up by the idea which he had professed, than by the hideous idea of the the King's being unhappy on his restoration to health, at beholding new officers of the household? Those officers who were removeable at the will of one person, and not of another, lived at present like the gods of Epicurus, with great splendour and hospitality; some in town, and some at their seats in the country. A distinction had been made between the political and the household servants of the Crown; but this was a distinction without a difference. Let gentlemen give a definition of a political servant which does not apply to the Lord Chamberlain, or the Lord High Steward. The statute book on the table would prove that, in the reign of Henry 8, they were both called Great Officers of the State. Were not those, he would ask, political servants? Was it intended to deprive the Regent of the right of naming his Majesty's chaplains? Did not that properly belong to the office of the Lord Chamberlain? It was said that we must provide against the exigency of the case. But this ought not to be by dividing the royal powers between the Prince of Wales and the Queen; and setting the son at variance with the mother. The Romans never provided against parricide, because they thought that no child could be so unnatural as to be guilty of the crime. But this was the worst of parricide. He declared fairly, that he had not conceived that such a plan was possible to have originated in the present administration. Little did he ever conceive that a right hon. gentleman would have acted so differently from what might have been expected from ingenuous youth, bright talents, and increasing fame. He had imagined that he would rather have exclaimed, "Let the tide of royal power roll on with undiminished streams from father to son, from King to Regent! It shall devolve whole and entire from the Crown to its representative."—For his own part, he considered the royal powers and authorities as a weight in the balance of the constitution; and when gentlemen diminished that weight, they altered the balance. It had been said by one set of persons, that if they were in administration, they would conduct themselves as they had hitherto done, but that, as the case at present stood, they would be vigilant in watching the power of the Regent; that if public measures succeeded they would rejoice, and that the comparison between the government which they had conducted, and that which was to be conducted by their adversaries, would now more obviously appear. But there could not be any comparison if they crippled the government. He would only suggest to the House the consequences of a fettered, weak, and debilitated government, which had the power of calling for services that could not be vigorously exerted, He was surprised to hear a learned lord, when surrounded with newly created peers, declare, that the wax was scarcely cold before they had suffered the impression to be obliterated. Let the House conceive the consequences likely to arise, if a king on recovering from his sickness finds that the former government had been weak and defective. He was proud to acknowledge himself to be one of those whom that king's former bounty fed; but he would not have to tell him, upon his restoration, that to show his attachment to his Majesty he had consented to cripple the government of his son. A government to prosper must be strong, and it was not probable that the king would consider it as no offence to have put such measures into execution, as tended to prevent the prosperity of the Regent; a father might, from the sense of his own dignity, from considerations of personal rank, and from other motives, bring himself to pass by and look down upon an insult that was offered to him; but he appealed to every noble lord, who, like himself, had the happiness to be a father, if a parent ever resented any thing more pointedly than an injury committed against his son? Upon such occasions, would not indignant anger against those who might injure and insult his son, operate with all the dignity and force of irritated virtue?

Lord *Loughborough* having premised that it was an undeniable principle, that the giving the Queen the patronage of the household and furnishing her with a council, would create a certain degree of secret influence, highly prejudicial to the stability of government, to its vigour, and to its efficacy, proceeded to point out the mischievous operation of it in a variety of

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possible examples. As a proof of the effects of secret influence, he instanced the disgrace of the famous duke of Marlborough, who had raised the glory of this country to a most exalted pitch, by his many victories in Flanders, and was just on the point of entering the provinces of old France, triumphantly at the head of his allied armies, when his career was stopped, the progress of his successful arms arrested, and he himself deprived of his command, through the intrigues of a bed-chamber woman to queen Anne. Thus, the abilities of a Harley, the fascinating powers of a St. John, and the laborious industry of a Harcourt, would have been exerted to no purpose, if there had not been a Mrs. Masham, who, by her secret influence with the queen, was able to effect that which the powerful armies of Louis 14 found it impossible to accomplish. He alluded to the historical fact stated in a former debate by lord Hawkesbury of the circumstance of Louis 15, being brought, when an infant of five years old, to hold a lit de justice in the parliament of Paris. His noble friend, if he had turned his eyes to a few years preceding that transaction, in the history of the same country, might have collected an argument against the mischievous system which the present resolutions were calculated to establish. Louis 14, conceived a dislike to his nephew, the duke of Orleans, and wishing to aggrandize his own natural son, the duke de Maine, by his will left the administration of public affairs to the duke of Orleans, and the control and management of the household, together with the custody of the king, to the duke de Maine. Before his death, the king told the duke of Orleans, that he had left him every thing to which his high birth entitled him. The will was duly registered in the parliament of Paris; but when Louis 14 died, the duke of Orleans, who was become presumptive heir to the infant Louis 15, by the renunciation of the duke of Anjou, then king of Spain, claimed the regency with all the powers and authorities which of right belonged to it, The parliament, as a celebrated writer of that day observed, felt itself in an awkward dilemma. It saw the dangers of giving full powers to a presumptive heir; it saw also the absurdity of placing the regent at the head of the government, and at the same time separating from it the patronage and influence arising from the management and control of the household. Both were obviously evils; but the parliament, wisely weighing all the difficulties of the case, preferred the lesser evil to the greater, and set aside the late king's will, revoked every limitation, and invested the regent with all the authorities of the Crown. Lord Loughborough reasoned upon this transaction, as elucidatory of the opinion of other countries concerning the evil consequences which they considered as the probable effects of a government wherein a part of the necessary power was separated from the executive authority. He dwelt on the mischiefs likely to result from the setting up of two governments (for such he considered the giving the Queen a large portion of patronage, and a council, to be in effect); and pursued the train of probable inconveniences through a variety of different hypotheses. He put the case of a loan to be raised, in which the public credit would necessarily be involved; the case of negociations carrying on with the continental powers; the case of commanders employed on foreign service; and the case of a public delinquent publicly arraigned. In the first case, the loan might either be defeated altogether, or the nation highly inconvenienced by the increase of terms occasioned through the intrigues of the second part of the government. In the second case, the ambassadors employed on such services would act a double part, and intrigue with one council while they were treating with another. In the third case, ministers might not find themselves able to support them, being deprived of the means of distributing due rewards, or of screening and rescuing them from party attacks, their authority over them would be inefficient, and the commanders would find themselves obliged to pay their court to the Queen's party, as a necessary shield against the weakness of their employers, and the power of that junto who ought to be considered as the opposers of those employers. In the last case, experience drawn from our own history towards the close of queen Anne's reign, had proved the possibility of the ends of public justice being defeated by the influence of a powerful party acting in hostility to the views of the executive government. Among abundant instances of the idle reasoning adopted as an argument in defence of putting the patronage of the household into the hands of the Queen, such as that the King would feel his mind

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disturbed when he awakened from his trance, if he saw that his domestic servants had been removed from about his person, he put the case, that his Majesty's incapacity had taken place some years since, and that his Majesty had come to himself a few years ago: in that case, his ministers, when admitted to their first audience, would have laid this sort of information before him: "Your Majesty has lost thirteen colonies, but—your palace stands where it did. Millions of national debt have been accumulated, but—your Lords with white staves stand where you left them. Much of the best blood of your subjects has been spilt, but—your Lords of the Bedchamber are still the same. Many calamities have happened in consequence of the weakness of government, occasioned by the prevalence of secret influence, but be not concerned at this, your Lords of the Bedchamber, your Gentlemen Pensioners, your Beef-eaters, are still the same. Look into the red book, and you will find it just as you left it." How absurd was it to pretend that so insignificant a circumstance as the possible uneasiness of the King, on his recovery, at not seeing the superior household officers around him, would afflict his Majesty!—With respect to the words of the resolution, which stated that her Majesty was to have a council of advice, he thought that before the Committee was called upon to vote the whole resolution, in common decency, they ought to have had the intended constitution and powers of the council in question opened to them; but not a single word of explanation had been said on the subject. Noble lords, therefore, were obliged to argue in the dark, upon no very immaterial part of the resolution before them; but mysterious and unexplained as the nature of the intended council was left by ministers, it was sufficiently obvious, that the evils he had endeavoured to describe as likely to flow from it, might and probably would follow from the establishment of a council connected with such a possession of power, held separately and distinctly from the executive government.—When from better health he should be enabled to address their lordships more at length, he would meet the learned lord on the question of the right of the Prince of Wales to the Regency, during his father's incapacity to exercise the royal authority; a question which he had neither abandoned, nor wished to shrink from.

The Duke of *Richmond* said, that the learned lord who spoke last had complained of the council, with the advice of which her Majesty was to be assisted, not having been explained to the Committee. This complaint was owing to their lordships having overlooked the consideration, that they ought not to confound the principle of a measure with the detail of the mode of its being carried into effect, two matters which it was necessary always to keep distinct. The resolutions before the Committee contained the principles upon which their lordships were called upon to decide, as to the limitations which public expediency required of parliament to impose on the Regent. The bill to be brought in upon those principles would contain their detail, and, in that bill there would be clauses, defining the constitution and powers of the council to be provided to advise the Queen in cases of emergency. The duke argued against the improbability of her Majesty's exercising her power over the household politically, against the government of her son, and said, he thought her Majesty's unexceptionable conduct hitherto was at least not bad ground of expectation that she would persevere in the same line. He lamented that an idea of her Majesty's intermeddling with politics had been started, declaring that those vile instruments of scandal, the newspapers, had, upon such a surmise, grounded their right to consider the Queen as a political character, and had treated this amiable personage with a degree of grossness, shocking to every man possessed of the least feeling or delicacy. The licentiousness of the public prints had increased of late to such a degree of profligacy, that it was evident they must be encouraged and supported in their calumnies, or they never would dare to go the length they did every day; he called therefore upon the learned lord to explain what he alluded to when he mentioned the possibility of a public delinquent's escaping justice through the hidden operation of secret influence; and he did so the more earnestly, because if left unexplained, he was sure that those vile pests of society, the daily papers, would pervert it to some slanderous purpose.

Lord *Loughborough* concurred with the noble duke in his condemnation of the gross calumny of the newspapers. It had been his lot to have been calumniated, as it had been the lot of the noble duke; and he, like the noble duke, had acted in an open, manly way, and resorted to the

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laws of his country for redress. If every man would do the same, the evil would at least be checked, if not prevented. He did assure the noble duke he had not contaminated his hands with any connexion with a newspaper. He disdained to taint his character by any such connexion. Formerly, newspapers contained effusions of wit, candid remarks, and such matters as ingenious minds might delight in; but of late, the common contents had been dull, uninteresting narrative, or violent abuse, dark and malignant insinuation, and foul calumny and aspersion. The reason obviously was, the impunity with which such liberties were suffered to be taken with individuals, and the gross and vulgar appetite of the public for scandal. The public delinquent to whom he had alluded was Dr. Sacheverell.

After a few words from lord Kinnaird, the Committee divided on the amendment, when the numbers were, "That the words moved to be left out, stand part of the question," Contents, 94; Not-contents, 68. The main question was then put, and agreed to.

The House having been resumed, the Report was brought up, the resolutions read, and the amendment of the words, "for a limited time," moved to each and negatived.

All the resolutions were then agreed to, and ordered to be returned to the Commons at a conference.

Protest against the Resolutions relative to the Exercise of the Royal Authority during the King's Illness.] The following Protest was entered on the Journals:

"Dissentient,

1. "Because we firmly adhere to the principles and arguments on which we disapproved the resolutions formerly passed by this House, especially when the legislative power of the two Houses of Parliament, unconstitutionally assumed by those resolutions, is meant to be employed to restrict or suspend many important and essential branches of the Royal power, at the moment of the declared incapacity of the King.

2. "Because we think the power of conferring the rank and privileges of the Peerage, as a reward to merit, is necessary to the Royal authority, in order to afford an incitement to vigorous exertions in the service of the State, and is more peculiarly necessary, like all other parts of the prerogative, when the regal power is to be exercised by a substitute, with an authority uncertain and precarious in its duration; but especially on the present occasion, as it is the only branch of the prerogative sufficiently powerful to afford a remedy against such a combination in this House, as other parts of this system of restriction and mutilation have a natural and obvious tendency to produce.—And because we conceive that this restriction may create an interest in the Members of this House, to withhold their assent to restore the ancient power of the Crown in this respect.

3. "Because we conceive that, by the subsisting law of the land, his Majesty's property is sufficiently secured from any undue disposition and alienation, and the resolution on that subject can have no other effect, but to convey to the public injurious suspicion and unjust imputation on the character and intentions of his royal highness the Prince of Wales.

4. "Because we are of opinion, that in order to maintain the proper dignity of the Crown, and preserve the due influence and respect which arises from the great offices of state, it is necessary that the person exercising the royal authority, in the name and on the behalf of his Majesty, should be attended by those distinguished servants whose functions have been established for the purpose of adding weight and splendour to the regal office. We cannot agree to a division of the royal power; to the creation of a fourth estate, unknown to the constitution of the country.——(*Signed*)—Frederic, Henry, Lothian, Devonshire, Audley, Chedworth, Craven, Portland, Bedford, Huntingdon, Carlisle, Egremont, Porchester, Ponsonby, Pelham, Malmesbury, Breadalbane, Sondes, Cassillis, Montford, Abergavenny, Derby, Loughborough, Hertford, Scarborough, Cadogan, Foley, Boyle, Ponsonby, Maynard, Douglas, Eglinton, Rawdon, Sandwich, St. John, Kinnaird, R. Landaff, Aberdeen, Cholmondeley, Chr. Bristol, Hereford, Hay, Peterborough, Rodney, Stawell, Northumberland, Cardiff, Wentw. Fitzmilliam, Southampton, Buckingham, Shaftesbury.

"Dissentient, For the 2d, 3d, and 4th reasons,——(*Signed*)—St. Albans.

"Dissentient, For the 1st, 2d, and 4th reasons only,——(*Signed*)—Clifton, Suffolk and Berks, Spencer, Hawke.

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" Dissentient, For all the reasons given in this protest, except those in the latter parts of the second reason, viz. beginning at these words, " but especially on," &c. from thence to the end of that second reason,——(*Signed*)—Selkirk."

Debate in the Commons on the Resolutions for appointing the Prince of Wales Regent, &c.] Jan. 26. The Masters in Chancery having brought a message from the Lords, desiring a present conference,

Mr. *Burke* said, that he wished earnestly to be made acquainted with the subject matter of the intended conference. Reports were in circulation that a proceeding of considerable importance was about to take place in the other House of Parliament. He trusted, therefore, that the Chancellor of the Exchequer would give them some information on the subject, and, the resolutions having been sent up from that House, would state to them what was the next step they were to be called upon to take; since, without such information, the whole matter must continue dark and unintelligible.

Mr. *Pitt* said, that he was not aware of any irregularity in the present proceeding, nor indeed, in any measures which hitherto had been pursued, upon this important and melancholy occasion. They had sent the resolutions, as soon as the House had voted them, up to the Lords, and now a conference was desired, it was impossible for him to state what would pass at that conference; but he should suppose that the object of it very properly was to let them know, that the Lords had agreed to the resolutions.

Mr. *Burke* replied, that if he had discovered even the most distant intention of objecting against the conference, the right hon. gentleman's answer would have been fair; but he appealed to the House, whether he had so objected. On the contrary, he had merely risen to ask for information; and that information was, it seems, to be denied the House. Mr. Burke added some general reflections on the steps that had been taken by the two Houses hitherto, and said that every step they proceeded, was an attempt to introduce some new principle in the constitution.

Mr. *Pitt* said, that surely it was not introducing any new principle in the constitution for him, as a member of that House, to refuse giving any information of what was about to pass in the other House.

Mr. *Burke* observed, that he must still insist, that the act of sending up the resolutions to the Lords, tended fundamentally to destroy the deliberative capacity of that and the other House of Parliament. To vote resolutions in the abstract, was a new mode of proceeding, attended with much inconvenience. Their former regular way had this advantage; they were not committed by the other House, but had frequent opportunities of knowing whether the bill introduced by the other House, and grounded upon their resolutions, was a monster or not. By the mode that had been adopted of their voting resolutions, in the name of the House of Lords, and obtaining the subsequent concurrence of that House, the House of Lords had pledged themselves to the bill founded on those resolutions, and that House, in the same respect, were pledged; so that the two Houses were mutually pledged to each other; a circumstance which tended to undermine the deliberative capacity of both. For this they had but one precedent, and that was the Irish propositions; but, at that time, much weighty argument had been urged against such a mode of proceeding. He thought the reason then assigned for it, a bad one, and he thought so now. The same reason, however, did not then exist, nor could it be contended, that they were obliged to wait the concurrence of a third party.

The question was then put, and agreed to. As soon as the conference was over,

Mr. *Pitt* informed the House, that the next step he should propose, would be to lay the resolutions, voted by the two Houses, before the Prince of Wales, in order to know whether his Royal Highness was willing to accept the Regency upon those conditions, and therefore he gave notice that he should to-morrow make a motion for an address for that purpose.

Mr. *Grey* asked the meaning of the proposition, for laying the restrictions before his Royal Highness, and addressing the Prince, to know whether he would accept the Regency on those conditions or not? He had heard from an authority which he was bound to consider as one of the first in that House, that they were a regular parliament. If, then, they were a complete Legislature, he knew not why they should address the Prince of Wales at all. He thought it the less necessary, since it was understood that the

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restrictions had already been communicated to the Prince. He could not, therefore, but express his surprise at the unconnected and inconsistent mode upon which they were every day proceeding, without system, or plan of any kind, and even amidst the right hon. gentleman's complaints against the evils of delay, procrastinating matters still more than ever.

Mr. *Pitt* said, that he should not answer to the charge of procrastination, but leave it to the judgment and recollection of that House, and of the impartial public, to decide whether he deserved the imputation. Let them recollect the steps they had taken; they had, in the first instance, examined his Majesty's physicians, and ascertained his incapacity. An intention having then been intimated, to assert a right to assume the exercise of the royal authority, it became necessary to discuss that point and decide upon it; having done so, the House had proceeded to lay the grounds upon which a bill was afterwards to be brought in, appointing and declaring a regent; and these grounds were contained in certain resolutions, which they had sent up to the other House, and which now awaited their answer. Having laid down the principles of the government to be established, the next step they had to take before they put it into the form of a law was, to endeavour to know, whether the Prince of Wales was willing to accept the regency, upon the principles contained in the resolutions. Whether there was any thing unsystematical in that mode of proceeding, he would not then examine. With regard to the restrictions having been already communicated to his Royal Highness, neither that House nor the other, could act upon any supposition of a private communication between his Royal Highness and his Majesty's ministers. They must proceed in that parliamentary method, which could alone furnish them with information of sufficient authenticity to warrant any further proceeding. With this view it was, he should move an address to his Royal Highness.

Mr. *Jolliffe* reminded the House that when he had lately put the question to the right hon. gentleman, whether he had communicated the restrictions to the Prince, the right hon. gentleman had said that it was an unparliamentary question; but now the right hon. gentleman openly moved, that they should be communicated. He seemed at length convinced, that he had proceeded in the dark, and that he must begin *de novo*. If the right hon. gentleman would have the good sense to consult the gentlemen of the law, they would advise him to abandon the circuitous and indirect path, and declare the Prince of Wales regent, without any restrictions.

Mr. *Burke* said, that the conduct of the right hon. gentleman was arbitrary in the extreme, and that he had made "sic volo, sic jubeo, stet pro ratione voluntas," the rule of his proceedings. The right hon. gentleman said, that the only cause of delay, had been the discussion of their right to act. He desired to know who it was that had questioned that right? Where was the question to be found? The right hon. gentleman had forced the House into the discussion, and in his haughty style, had said to the House, "Slaves, do you presume to hesitate, or hint a doubt upon the matter? I will put an end to your scruples. The question shall be debated; it shall be decided." They all knew the nature of the dominion, which the right hon. gentleman meant to exercise over the Regent's government. It was as absolute a tyranny, as any exercised by Julius Cæsar, Augustus, or Oliver Cromwell. With regard to the doubt of the right of that House to act, of which the right hon. gentleman had talked, no man meant it, no man had said it: but the right hon. gentleman had stooped from the dignity of the supreme sovereignty which he had assumed to combat a right which had not been claimed. He disliked this union of the fox's tail and the lion's skin. It was an unnatural junction of low cunning and supreme authority.

Sir *Joseph Mawbey* could by no means submit to the suggestion, that any person could exercise tyranny over that House, be his station ever so exalted. He, for one, never could allow that regents were kings, or that they had an equal right to the unrestrained exercise of sovereign power. He knew there had been regents, who had done honour to their own characters, and met the approbation of the people. He spoke of the peculiar circumstances of the case, as warranting a peculiar mode of proceeding; because, should the King in the course of a few weeks, a few months, a year, or a year and half, recover, and be able to resume the reins of government, it was the duty of the two Houses to provide, that his re-assumption of the exercise of the royal authority should not be impeded,

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or embarrassed. The people, from whom all power was originally derived, had an indisputable right, whenever a convulsion of the government, or a temporary suspension of the exercise of the royal authority occurred, to say what authorities should be vested in those appointed to rule the realm, and to prescribe such limitations and restrictions as they should think proper.

Mr. *Sheridan* said, that as the restrictions stood, there was nothing in them which intimated that they were to continue for a limited time only. Upon the face of the resolutions, they appeared designed to be permanent; and therefore he submitted whether it was not absolutely necessary, by some means or other, to signify to the Prince of Wales, that they were meant to continue in force only for a limited time. Perhaps, the Chancellor of the Exchequer designed to do this in the address: but certainly it was material, that it should be done one way or the other. He understood, there was to be a commission passed to open the parliament as soon as the Prince's answer to the Address was received, and it was said, that his royal highness was to be one of the commissioners. He hoped, therefore, the right hon. gentleman would inform the House how the commission was to be constituted.

Mr. *Pitt* said, that when the resolutions had been carried to the Prince of Wales, and the answer of his Royal Highness obtained, it would then be time enough to discuss the propriety of the commission to be passed for opening the parliament.

Mr. *Sheridan* desired to know if there was not some danger in adopting that mode of proceeding. He described the awkward situation in which it would place the Prince, by stating, that if the address were presented with the resolutions, and the answer should be, that his Royal Highness was willing to accept the Regency on those conditions, whether, when the commission was issued, and the Prince might not choose to have any thing to do with it, he would not be precluded from refusing, and be considered by his answer to have pledged himself to consent to all the subsequent proceedings relative to the appointment of the Regency?

Mr. *Pitt* repeated, that his first object would be to carry up the resolutions, and the other matters, such as the ordering a commission to be issued in the King's name for the opening of the parliament, and various necessary points, would come under discussion hereafter.

Jan. 27. Mr. Pitt moved, that the resolutions which had been agreed to by the House, be read. The same being read by the clerk,

Mr. *Pitt* said, that in his opinion, the proposal which he should beg leave to submit to the House, appeared wholly as a matter of course, flowing from the steps they had already taken. To lay the resolutions they had come to before the Prince of Wales, in order to ascertain whether his Royal Highness would accept of the Regency, under the resolutions agreed to, previous to their putting them into the form of a law, was a measure which struck him as so proper, that, had it not been for what passed the preceding day, he should not have imagined that there would have arisen one dissenting voice. He then moved, "That a Committee be appointed to attend his royal highness the Prince of Wales with the said Resolutions which have been agreed to by the Lords and Commons, for the purpose of supplying the defect of the personal exercise of the royal authority, during his Majesty's illness, by empowering his Royal Highness to exercise such authority, in the name and on the behalf of his Majesty, subject to the limitations and restrictions which the circumstances of the case appear at present to require; and that the Committee do express the hopes which the Commons entertain that his Royal Highness, from his regard to the interests of his Majesty and the nation, will be ready to undertake the weighty and important trust proposed to be invested in his Royal Highness, as soon as an act of parliament shall have been passed for carrying the said resolutions into effect."

Sir *Grey Cooper* said, that although the right hon. gentleman had moved the address as a mere matter of course, it appeared to him to be a matter of the utmost importance. He did not wonder that his hon. friend (Mr. Grey), when the proposition was first stated, had expressed his surprise at the manner in which the House had been treated by so sudden an alteration of the plan of proceeding. There certainly was something very unexpected and mysterious in the measures of the foregoing day. It had been announced, that the right hon. gentleman was to proceed to make another motion in the Com-

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mittee on the state of the nation. The members who attended their duty were under this impression, till the Speaker took the chair the preceding day. They were all told, even at the door, that the business was to begin in the House of Lords. Those who went to the House of Lords informed them, that a sudden stop had been made in the proceedings, by a great authority in that House. To what was all this confusion and delay to be imputed? The right hon. gentleman had declared, that the two Houses of Parliament, in this great emergency, fully represented all the ranks of the people, and that they were the legal organs through which the voice of the people could only be heard, when there was a defect in the exercise of the royal authority. Perhaps, by some accident, one of those organs might be somewhat out of tune. Some whispers of dissonance had come down there through the long gallery: some low notes of discord, or at least of "harmony not understood;" and therefore, till that other instrument was put again into order, and the great masters had settled what parts they were to perform, they were to be amused with this interlude. Be that as it might, he had serious objections to the address. In the first place, it was unnecessary, as a preliminary measure to the bringing in an act of parliament, the coming of which was announced with a most alarming solemnity. Secondly, if it was necessary, it was improper, both in point of time and of matter. The right hon. gentleman knew it was not necessary, as a preliminary step to the bill, to send the resolutions to the Prince for his acceptance. There were certain papers to which he alluded, the communication of which to the House had some time since been requested by two worthy members; but though that communication was, for certain causes, refused, this paper, which contained the answer of the Prince, was in the possession and in the admiration of the public. Whatever other purpose the correspondence between the minister and his Royal Highness might have served, it had certainly brought before the eyes of the nation the character, the talents, and the virtues of the Prince. It had manifested that he loved and revered the constitution of his country; that he expected to be intrusted, during the deplorable incapacity of the royal authority, with all the powers which the constitution had alloted to the exercise of the regal office; because he conceived that those powers were an integral part of the rights of the people. He felt and expressed both surprise and regret at the distrust which withheld those powers from him; but he thought it the duty of the heir apparent to accept the high trust, under whatever restrictions it was offered to him, and to pay a dignified deference and submission to the result of the deliberation and wisdom of parliament. This proved that the address was unnecessary in point of fact; he also insisted that it was improper and irregular in point of time and of matter. In point of time, because the bill itself, which they were informed was to be passed in a future parliament, ought to be laid before the Prince for his approbation and consent. Consent, in the case of private bills, was by custom always taken in the Committee. The second objection was in point of matter: for he was persuaded, from the artful manner of wording the Address, that it was not only intended as an insidious and concealed contrivance of pledging the consent of the Prince, but of precluding, by a side wind, the deliberation of the House on the resolutions which were to constitute the basis of the bill. In addresses from that House, in answer to speeches from the throne, nothing was more anxiously watched than any words which, whilst they pretended merely to convey an affectionate and dutiful answer to the Crown, engaged the House to adopt the measures recommended by the ministers; and such attempts were always reprobated by parliament.

Lord *Belgrave* supported the necessity of knowing authentically whether his Royal Highness would, or would not, accept of the Regency, under the resolutions agreed to. Granting the first, it must follow, that it was requisite to proceed with all possible dispatch to invest him with the necessary powers; but, in the second instance, the House must adopt a different proceeding. For his own part, he did not perceive any reason why they should proceed irregularly, when they had it in their power to proceed in a regular and parliamentary manner. He considered what the hon. baronet had said relative to the letter from the Prince to his right hon. friend, to be wholly inapplicable to the question; for he could not conceive how it was possible that gentlemen should act upon any thing that had passed out of doors. He con-

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ceived, that it would be a breach of decorum, not to lay before his Royal Highness the resolutions to which they had agreed, that they might be acquainted whether the Prince would accept the Regency under them.

Sir *John Swinburne* asked, whether the indecorum to which the noble lord alluded, did not already exist? In his opinion, a great indecency had been offered to his Royal Highness, by the plan not having been laid at the first before him. He thought his Royal Highness showed a great regard to the constitution, in accepting the arduous post of Regent, in the present crippled state in which it was offered to him. It ought, in his mind, to have been offered free from any restraint whatever. If the right hon. gentleman, did not, by the present address, mean to pledge himself to the House, that no alterations should be made in the bill that was intended to be brought in, he conceived it would be infinitely more proper to address his Royal Highness when the bill should have been brought to a conclusion.

Mr. *Dudley Ryder* begged leave to ask how it was possible that the resolutions could have been laid before his Royal Highness, previous to their having been agreed to by the two Houses? The hon. baronet had declared it as his opinion, that the Prince ought to have been acquainted at first with the resolutions, at a time when they were not agreed to; but, when they were agreed to, he objected to their being laid before the Prince. By the House agreeing with the address, he could not consider that they were pledging themselves to do any thing farther, than, as men of honour and conscience, to agree to that in a bill, which they had before agreed to in the form of resolutions. If they altered the bill, and imposed farther restrictions, the Prince's contract to abide by the restrictions, would consequently be void.

Sir *Charles Gould* contended, that the first resolution had passed under circumstances which no longer existed. They had then a Speaker; at present they had only a Speaker elect, the right hon. gentleman in the chair not having yet received the approbation of the Crown; and, to proceed without it, was to infringe on a part of the royal authority. Sir Charles said, that he had been misrepresented, and charged with holding one doctrine within that House, and another without doors. He had been, and still was, of opinion, that the Prince had no right to assume the Regency; but, at the same time, he opposed any declaration against the right, conceiving that such declaration would impress the minds of the people at large, and posterity, with a belief that such right had been asserted by his Royal Highness, which had not been the case. No such claim having been made, he considered the declaration of it, and all the subsequent steps, as needless.

Colonel *Phipps* urged the exigency of the case, in which they were of necessity to make a choice of evils. He said, that the doubt of the Speaker's not being approved of, was a very inconsiderable reason for opposing the Address. An hon. gentleman had said, that the Prince ought to have been addressed before any of this was done, but would not agree to address his Royal Highness until the whole business was concluded. In extreme cases, it was wise to take the medium; and he believed that the opinion of the people would be for pursuing the plain, simple, and direct path, disregarding the violence of party on either side.

Mr. *Grey* considered the motion of the right hon. gentleman as a confirmation of his want of system, and of his wish for delay. The right hon. gentleman had, however, asserted, that it was out of respect and attention to his Royal Highness that the present Address was proposed. He certainly was not one of those who wished to oppose any mark of respect and attention to the Prince; he sincerely wished that the Prince had been treated with no want of respect and attention in other stages of the business; his Royal Highness was entitled, by his conduct, not only to the most marked respect, but to the love of the people. He considered the answer of the Prince to the resolutions by no means necessary for the House to proceed upon. He wished to ask, whether the Prince's agreeing to the resolutions would be considered as a pledge to agree to any future resolutions which might be added to the bill when brought in? or whether it was meant to preclude the House from any future deliberation? If it was not to answer either of these purposes, in his opinion, it was wholly unnecessary. Most of them knew the nature of the feelings of his Royal Highness. The right hon. gentleman's attempts clearly went to make a republican

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government out of a limited monarchy. Let the House be aware of the danger of such a change in the constitution. The address appeared to him to be brought forward for no other purpose than that of the delay of near a week; since they could not sit on Friday, and his Royal Highness's answer could not be received before Saturday. He asserted, that the boasted popularity of the minister was not so great as had been represented. Possibly, the right hon. gentleman alluded to the addresses endeavoured to be obtained for him in different parts of the country. He had heard scarcely of any place, where there had not been great difference of opinion; in no other country but Devonshire, had there been any thing like unanimity, but, on the contrary, so much division and confusion, that it was doubtful whether the addresses were carried or not. He knew nothing of those addresses, but what he saw of them in newspapers and other publications. He held addresses, at all times, to be improper, as tending to bias the votes of gentlemen, contrary to their judgments. He was happy in the conduct of his constituents, (Northumberland) from whom an attempt had been made to procure an address. Such an address had, however, not been procured; and his constituents by leaving their representatives to the free, unbiassed exercise of their judgments, had ensured their future zeal and services.

Mr. *Bouverie* said, that it behoved the House to enter upon the subject of appointing a Regent as soon as possible. He agreed with the address, if no farther restrictions were meant to be incorporated in the bill than those which the House had agreed to.

Mr. *Sheridan* said, that there were two things which, he owned, would incline him to agree to the address; one of these was, that it had been understood that the idea so hastily suggested on a preceding evening, of limiting the duration of the Regency was abandoned, and the reducing the form of the constitution to a republic, by making the election of a supreme governor annual, would no longer be insisted upon. When this idea was first started, the right hon. gentleman seemed ready to embrace it: he could not therefore but wonder at the sort of acquiescence manifested by the House in a proposition of so monstrous a nature, pregnant with such extensive mischief, and tending in the first instance to change the form of the constitution. He said, that the resolutions, upon the face of them, appeared to be final and permanent, since they contained nothing that pointed out that they were calculated merely to subsist for a limited time, and to answer an emergency of only a temporary nature, although upon that single ground, had the House been called upon to vote the resolutions. He enforced the necessity of accompanying the resolutions, when laid before his Royal Highness, with some intimation of this very material circumstance; and declared that he would move an amendment to the motion, in order to add words to that effect.—Another point was, that the scheme of setting up what had been properly enough termed a phantom and a shadow to represent the third estate, was to be abolished; if the fact were so, he should rejoice exceedingly, because he could not but regard the resorting to such a mode of obtaining the royal assent as a fallacy, and a violation of the rights of the third estate, by an assumption of the exercise of those rights in the two Houses of Parliament, to whom it did not constitutionally belong. The right hon. gentleman had thought proper to contend, that the House had already determined on that point; but he begged leave to say, that they had not determined it; they had, indeed, talked of it, and loose hints had been given in the course of debate of the nature of the thing intended to be put in practice; but all they had decided was, that it was necessary for the two Houses to determine on the means by which the royal assent should be given to a bill; and, most certainly, there was a wide difference between resolving that it was necessary for the two Houses to determine on the means, and the means themselves.—Another matter, which remained as yet wholly unexplained was, the degree of state and attendance, which the right hon. gentleman had observed that he meant to move to be annexed to the Regent, in the room of that power and patronage, which, by the fifth resolution, he had proposed to take away from him. As the right hon. gentleman seemed to mean to retain that office, and give up every other, he wished that at the time when the restrictions were laid before his Royal Highness, the right hon. gentleman would insert something in the address to apprize his Royal Highness of the intention, that he might know what was to be contained

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in the bill, and that it was to contain something else besides the restrictions. He concluded with moving, by way of amendment, to add to the motion, these words, "and to inform his Royal Highness, that such parts of the said resolutions as restrain the exercise of any part of the legal prerogatives of the Crown, or separate the establishments which had hitherto been united under his Majesty and his Royal Predecessors, are formed upon a supposition that his Majesty's illness is only temporary, and may be of no long duration." These words, he said, he had taken out of the right hon. gentleman's letter to the Prince of Wales, and therefore he did not imagine that any objection could be made to his amendment.

Mr. *Pitt* admitted that he had argued, that the restrictions were such as were fit only to be applied for temporary purposes: but, though the necessity for them was supposed to be only of a temporary nature, it was impossible to fix beforehand the precise time when that necessity would cease. The hon. gentleman had stated, that he had selected the words of his amendment from a certain publication, but if he would refer to that publication, he would find that he had selected words from one part of it, which were followed by others, in which the idea was fully explained. He therefore objected to the amendment, as containing a partial selection of words from a publication in which an explanation of that partial selection was to be found. The hon. gentleman, it was clear, had either not heard the motion which he had delivered to the chair, correctly, or he had forgotten the words of it; since, if it were examined, it would be found to contain words that expressly marked that the restrictions were only temporary. Here Mr. Pitt read that part of the motion in which it was stated, that the restrictions in question were such as appeared to them proper to be adopted under the present circumstances of the case. What could be fairer than stating the restrictions to be framed on the principle of being such, as the occasion appeared at present to require? The motion, therefore, in his opinion, was sufficiently expressive of all which need to be noticed, and of course precluded the necessity of the amendment.—As the hon. gentleman had expressed his hopes, that the idea of limiting the duration of the Regency was abandoned, he must beg leave to remind the House, that he had objected to any particular time being stated for the duration of the restrictions; but an hon. gentleman (Mr. Pulteney) had proposed to limit the duration of the bill, and upon its being objected to by a right hon. gentleman not then present, who had stated that such a limitation as went to the election of a regent from time to time, tended to create a republic, and to alter the form of the constitution, in answer it was said, that the period of limitation should extend to the power as well as the restrictions; and he must confess, that he thought it less an evil that limitations should be put on the whole, than on a part of the plan. He had himself mentioned no limitation at all, but had thought it best to leave it open for that House, in future, to judge of the nature and circumstances of the case, and, therefore, he had begged the hon. gentleman not to press them at that time. One of the champions of the constitution, on the other side the House, had contended, that no ties ought to be fixed to any part of the bill. He must, however, repeat, that if it should be thought proper for any part to be limited, the power ought to be limited likewise; because, otherwise they suffered the power of providing in future, as the nature of the case might require, to go out of their hands, and the Prince of Wales would be bound only for a limited time, while they would remain not only subject to the inconvenience, but would lose the claim of being attended with all the convenience possible, because the convenience was their reserving it in their own power to act upon their discretion, as the necessity of the case might demand. At present they did not know but the bill might be objected to by the Prince, and, if so, a very different mode of proceeding must be adopted; but, if the Prince should agree to accept the Regency on the conditions stated in the restrictions, what then would be the consequence? The bill would proceed after the Parliament should be opened. The House could not be pledged further than their honour and judgment had led them in framing the present resolutions; and, on the other hand, if the bill altered the conditions stated in the restrictions, or superadded new ones, in that case the Prince could not be considered to be bound by his answer to the restrictions then under their consideration, whatever might be

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the nature of such an answer. But, he would ask, which was most probable, after having voted the restrictions, that they would abide by, or depart from them? If the House departed from them, they would lose the object at which they aimed, and all they had hitherto done would be matter of fruitless labour and useless discussion. The spirit of the resolutions contained every point that appeared to him necessary to be decided before they proceeded to the immediate step of opening the Parliament, and moving a bill: had any thing more occurred to him as necessary, he certainly should have proposed it. The spirit of those resolutions was, that all the royal power should be exercised by his Royal Highness, in the name and on the behalf of his father, subject to the restrictions which were specified. He hoped, therefore, that his Royal Highness would not object to the restrictions, and that the House would not find any material inconvenience in presenting the motion with the resolutions to his Royal Highness; but, if it should even prove a material inconvenience, he trusted that it would be deemed an inconvenience necessary to be incurred, as it would ensure their future proceedings, and rescue them from the hazard of losing much time, and giving themselves much further unnecessary trouble.—As to the charge of want of system, want of method, and of intentional delay on the part of his Majesty's ministers, it had been lightly and wantonly thrown out, but not supported.—With regard to the charge of delay, likely to be occasioned by the present motion, he did not think it probable to be so great as had been suggested; but, if the measure was a necessary measure, though he had all along been, as the House well knew, an advocate for dispatch, he should conceive, that in so very important a point, doing the business well, was preferable to doing it speedily. The difference with regard to opening the Parliament, however, could not be a week. If that House voted the two motions for the four first restrictions to be carried up to the Prince, and the fifth resolution to the Queen that night, they would, the next day, carry them to the Lords, who probably might vote them in the course of the same day; and, in such a case it was not impossible that they might receive his Royal Highness's answer on Thursday.—With respect to the execution of what had been called a phantom, but which he trusted, when explained, would be found not to be an imaginary, incorporeal being, but of the solid and material substance of the constitution, it might either in that House or the other be entered upon the same day; if in that House first, the House of Lords might sit on Saturday, and the bill be brought in and entered upon early next week, and the whole system as far as regarded that House, would thus become compleated in the course of that week.—An hon. gentleman had said, that throughout the measure, there had been a manifest want of attention and respect to his Royal Highness: for his own part, he could declare, that he had never thought it necessary to take notice of the numerous anonymous libels so industriously put in circulation. To such libels, avowed by no person, it was impossible to give an answer; but yet, if any man thought there had been real ground for a complaint of want of respect and attention towards the Prince of Wales, in any part of his conduct, he called upon that man, in truth and in fairness, to state the instance, and he would chearfully meet the charge. He considered respect to his Royal Highness as one part of his duty to his Sovereign: it was inseparable from it. But though he should be extremely sorry to be deficient in that respect, that was justly due to the Prince of Wales, yet, what he owed to his Sovereign, to the constitution, and to the people of England, was paramount to any personal respect that might be due to any character whatsoever. Though it was paramount, however, to all degree of personal respect, it was not inconsistent with such a compliance with decorum; and he ever had, and ever would pay the same respect to his Royal Highness as to all the rest of the Royal Family, and to the Sovereign himself. The truest respect he could pay to all of them, was, to cultivate the interests of that nation, over which their ancestors had been called upon to govern, and to watch over the safety of that constitution, which his Royal Highness would one day be called upon to protect.

Mr. *Grey* said, he felt himself in rather an unpleasant situation, seeing that he could not bring forward any charge of the nature in question, without appearing to speak from some authority; but as he had undoubtedly accused the right hon. gentleman of having treated his Royal Highness with want of respect, he would pro-

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ceed to make out what appeared to him to be sufficient grounds for that charge, being determined never to flinch from what he should at any time say in that House. Whether what he should offer might appear in the same point of view to the House, was not for him to determine; he only begged them beforehand to understand, that he spoke his own sentiments, without the privity and concurrence of any individual whatever. The right hon. gentleman appeared to him to have shown a manifest want of respect and attention to the Prince of Wales, in the first place, in the manner in which, when the privy council was summoned to examine his Majesty's physicians, the intimation of its being convened, and the object of it, was communicated to his Royal Highness; all this being done by the same sort of ordinary summons which was sent to the other members of the council. In this either the right hon. gentleman or the President of the council, discovered a marked want of respect and attention to the Prince of Wales. The next instance was, the right hon. gentleman's not having submitted the whole of his intended plan to his Royal Highness, before any of the proceedings of parliament took place, and, indeed, previous to its public statement in that House. Another instance he should mention was chiefly grounded on public report, and that was the manner in which, when the proposed restrictions were communicated to the Prince of Wales, that communication had been made. In that, as in the preceding instance, he conceived there was a reprehensible want of respect to his Royal Highness. With regard to the charge of a want of system in the whole of the right hon. gentleman's proceedings upon the subject of the Regency, the right hon. gentleman seemed to consider his plan of proceedings as perfectly regular, as if one part of it sprung out of another, and the whole was a system of harmony and order, which they must all admire for its symmetry and beauty. In order to prove this, the right hon. gentleman had gone into a recapitulation of their proceedings, from the moment of their having ascertained the fact of his Majesty's incapacity. The right hon. gentleman, however, had passed over one of these proceedings, and that also of an early date, of which he must beg leave to remind him. It was, his second motion—his motion for a Committee to search for precedents; which he had introduced with an argument, that it was necessary for that House to have the advantage of the collective wisdom of their ancestors to govern their conduct by, and yet, when the curious publication upon their table was referred to, it would be found, that the measures which the right hon. gentleman had taken, were not grounded upon, nor did they bear the smallest analogy, to any one of the precedents contained in the report. It was evident, therefore, that the right hon. gentleman had not gone upon any one system or method, and that he had no plan arranged by a combination of all its parts, constituting a regular and complete system, but had led them on, step by step, coming forward with separate and discordant propositions, merely as the exigency of the moment suggested.

Mr. *Pitt* said, that he felt it totally needless to animadvert upon the concluding part of the hon. gentleman's speech, because every candid and impartial man might judge whether he had or had not proceeded on one regular and uniform system. He would only advert to the charges of disrespect and want of attention manifested by him towards the Prince of Wales; and so far was he from complaining of the hon. gentleman for having made the charges, that he felt obliged to him for having stated them so explicitly; as it afforded him an opportunity, which he could not otherwise have had, of meeting them in the face of that House and of the public. The first charge was a failure of respect in the manner of sending notice of the meeting of the privy council to the Prince of Wales, which he might easily have got rid of, by saying, that if it was an error, it was not his error, but that of the lord president of the council. He disdained, however, to avoid taking his share of the blame that might be thought imputable to any measure of that venerable personage, with whom it was the pride and happiness of his life to act, and if he had wished at any time to avoid such a participation of blame, he was convinced, from the degree of cordiality and confidence in which the learned lord and himself lived, it would, in point of fact, be utterly impossible for him to have an opportunity of being placed in such a predicament. The first part of the charge was, that his Majesty's ministers had not previously consulted the Prince of Wales what measures they

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were to take in the difficulty wherein they found themselves involved, in the execution of the trust reposed in them by the King. He owned the truth of this charge in that point: his Majesty's ministers had not concluded it to be their duty to receive orders from the Prince of Wales, at a time when they were the servants of the Crown, and his Royal Highness was in no political capacity; neither had he any authority to give his Majesty's ministers a single order of any description whatever. They felt that theirs was the responsibility for every step that they took, and they knew that theirs ought of consequence to be the discretion. With regard to the method of sending the summons, and the charge that his Royal Highness had received no other than the ordinary notice sent round to every other member of the council, it was evident the hon. gentleman had been grossly misinformed in point of fact. So far from the event having passed as the hon. gentleman had stated, his Royal Highness received a special letter, written by the Lord President, stating the subject to be submitted to the Privy Council, and the business to be entered upon; and therefore his Royal Highness had been summoned in a manner the most respectful, and totally different from that in which any other member of the Privy Council had been summoned, excepting only the other princes of the blood.—The next charge was personally against himself; it was the charge of not having acquainted the Prince of Wales with the whole of his plan, previous to his opening it in that House. To the truth of the fact alleged, he must also, in this point, submit; but, he begged gentlemen to recollect what had passed, and he believed it would be granted, that, the circumstances considered, it was a little hard that it should be made a matter of charge against him of want of respect and attention to the Prince of Wales. He had resolved, as soon as ever a plan should be adjusted, to communicate it to his Royal Highness, previous to his stating it to the House: but, in the course of the debate in that House, when the question of right was preliminarily under discussion, gentlemen would remember, that he had been called upon particularly, by a right hon. gentleman, not then in his place, to state the general outlines of his plan, the right hon. gentleman declaring expressly, that it was equally a matter of information desirable to him and his friends, to know in what manner he meant to proceed. In the moment that he was publicly called upon, it was impossible for him to suppress the outlines of the plan, without offence to the House; he was under the necessity of giving them, and they were communicated to the Prince, according to his commands, the next day after the debate. He had not, he said, mentioned the particulars of the plan till after the question of right was discussed; because, as that question involved in it considerations, the decision upon which might supersede the necessity of that House deliberating at all upon any farther steps to be taken, it was needful to have it discussed as a question preliminary to any other proceeding. With regard to the disrespectful manner in which the communication of the restrictions intended to be proposed to the two Houses was made to his Royal Highness, report had gone to such an extravagant length, that he believed it had gained credit about town, and he was sure it had been circulated in the country, not only that a message had been sent by a livery servant, but that the message had been a verbal one. The truth, however, was, that the communication had been made respectfully in writing, and the letter had been sent, not by a livery servant, but by a messenger, dispatched for the especial purpose. Perhaps, there might be a failure in point of respect in this mode of communication. No man, he owned, was more ignorant of etiquette than himself; but he was not conscious of the most distant intention to show disrespect to his Royal Highness. He had repeatedly made communications to his Royal Highness before, in precisely the same mode, without its having ever drawn upon him the smallest animadversion for a failure in etiquette, or having been considered as an instance of disrespect; and, during the five years that he had been in administration, he had never communicated any of the numerous papers, dispatches, &c. that he had, from time to time, had occasion to transmit to his Majesty, in any other manner; and he was sure that he had not intended to have shown a disrespect to the Prince of Wales, in the instance alluded to, more than he had ever intended to show a disrespect to his Majesty, during the period that he had been honoured with his Royal confidence. He trusted the explanation he had given of his conduct in those particulars, in which a want of respect and attention to the Prince of

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Wales had been imputed to him, would prove satisfactory to the House; and he was persuaded, that no gentlemen would be more happy than those who had conceived that there had been some reasonable plea for the allegation. He flattered himself, therefore, that they would in future consider the grounds of rumours, before they hastily gave them credit; and he should intreat gentlemen to reflect a little on the candor of all other public rumours, and to judge of them by the very slight degree of truth which he had proved to exist in the rumours that were circulated so injuriously to his character.

Mr. *Burke* observed, that he placed no confidence whatsoever in mere rumour, and the rather because he knew what the right hon. gentleman's conduct had been; and was too fully convinced that he had shown great want of respect and attention to the Prince, in the whole course of the proceedings respecting his Royal Highness. The right hon. gentleman had talked of etiquette, denied all consciousness of guilt, and called for the proof. If they had been accusing the right hon. gentleman of a crime, they must have had recourse to the laws; but, it was a want of civility and good manners, where both were so eminently due, that they were charging him with, and that charge was easily made out. The right hon. gentleman had said, that to treat the Prince with disrespect, was to treat his Majesty with disrespect; the right hon. gentleman was, in that opinion, correct, since those who injured the Prince of Wales, undoubtedly injured the King. That fact being admitted, what were they then to think of the right hon. gentleman's not having consulted the Prince of Wales on the subject of convening the Privy Council, and the measures to be taken therein? The right hon. gentleman had declared, that the King's servants were not to take orders from the Prince, but to consider him as any other member of the council. Was the man, he would ask, to be regarded as showing the necessary degree of respect and civility to the Prince of Wales, who, because he was not by law bound to take orders from his Royal Highness, therefore chose to pass him by without notice? In what a peculiar situation did his Royal Highness stand! A grievous calamity had fallen on his family, and he had thereby lost the protection of a father, who, if in a state of capability, would have guarded him from the insolence of his servants. There was an evident and a gross want of attention and want of humanity in the right hon. gentleman's conduct; since in the case of an affliction having befallen the father, who, he would ask, ought to be consulted as to what was necessary to be done, so soon as the eldest son? Was it not usual, in all cases of illness and disaster happening to the head of a family, to have recourse to the next person in it, as the one most interested in the event of the affliction? Great incivilities, when premeditated, might pass into something of a higher nature than want of respect, and might be met upon other grounds, but, in considering that no more notice was due to the Prince of Wales than to any other member of the Privy Council, there had been a reprehensible want of attention.

Mr. Burke said, that the right hon. gentleman had forced the House to debate the question of right, without having previously communicated to the Prince, that a right, in which his Royal Highness was so much interested, was about to be made the subject of discussion. That was, in his mind, a great indecency, and the more so, after the respectful, but at the same time dignified manner, in which that discussion had been deprecated by the Duke of York, and a declaration made, that the Prince of Wales, from a thorough regard to the constitution, whatever right he might have, was willing to accept the Regency on such terms as the two Houses of Parliament should think proper to give it. Mr. Burke praised the fraternal affection manifested by the Duke of York, which, he said, proved his Royal Highness to be a worthy person, and afforded well-grounded hopes that he would be ready and willing to assist his brother. With regard to the manner of communicating the intended restrictions to the Prince of Wales, the right hon. gentleman could not be ignorant that when papers were sent to his Majesty, the usual mode of transmission was by a black box, which was deemed respectful, the box being considered as marking the respect. Mr. Burke added, that he would leave the degree of disrespect manifested in this instance to the judgment of the public, who would, doubtless, decide it in their usual manner. It was beyond a question, that those who approved the right hon. gentleman's conduct, would have imitated it, had they been in his situation.—As to

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the question then before the House, it was, as his hon. friend had stated it to be, nothing more than a direct endeavour to create unnecessary delay. They had been taught, on the preceding day, to think that the business of the Address would have come on in the House of Peers; and why such a circumstance had not occurred, he could not tell, but he saw no reason whatever for losing a week. The right hon. gentleman had said, that they could not receive the answer of his Royal Highness before Thursday, and that they could not sit on Friday. He asked, why not sit on Friday? Friday was the only day proper for such business. The day on which the nation was to commemorate the extinction of monarchy, which had not been effected without the spilling of blood; and therefore Friday was, of all days, the most fit for taking that step, which was to annihilate the constitution, and to change the form of our government. Whether the putting off the business in the House of Lords the preceding day, had been owing to a difference amongst ministers, he knew not; but there was a little bird, a small robin-red-breast, which sung that something like it had happened; and when he talked of a little bird, he borrowed the idea from the right hon. gentleman's father, who had said, a little bird told him that the lords of the bedchamber were, at a certain time, supposed to exercise their influence in a manner not absolutely proper. The same bird, Mr. Burke remarked, had whispered to him, that there was a reason for not proceeding as had been intended, and for suddenly shifting the business upon their shoulders. Alluding to the speech of the Lord Chancellor, Mr. Burke added, that perhaps the other House were not yet recovered from the effect of that extraordinary burst of the pathetic which had been exhibited the other evening; they had not dried their eyes, and been restored to their former placidity, and were unqualified to attend to new business. The tears shed in that House on the occasion to which he alluded, were not the tears of patriots for dying laws, but of lords for their expiring places. The iron tears which flowed down Pluto's cheek rather resembled the dismal bubbling of the Styx, than the gentle murmuring streams of Aganippe. In fact, they were tears for his Majesty's bread. Those who had been fed by the King's bounty were supposed to have deserted him in his utmost need. There was a manifest difference between that House and the other; between patricians and plebeians. They, in an old-fashioned plebeian way, would have observed, "If we can no longer serve the King, we will no longer receive his wages; we will no longer eat his bread;" but the lords of the household held a different language, and pursued a different conduct; they would stick by the King's loaf as long as a single cut of it remained. They would fasten on the hard crust, and would gnaw it, while two crumbs of it held together; and, what was more extraordinary, they would proudly declare at the time, that it was the honour of the service which they regarded, and the dignity of their offices; and that as to the emoluments, they did not value the money three skips of a louse. This was gratitude—a degree of gratitude which courtiers never failed to exhibit! Under that roof, they considered mankind as subject to human frailty, and, dreading the effects of that infirmity to which all human nature was equally liable, they tried to guard against it, by voting again and again, that officers of all and every description should be disqualified from sitting in that House. But, the lords of the household were a different order of beings; they were beyond the reach of influence; they were a set of saints and philosophers, superior to the lusts of the flesh and the vanities of the world!

Mr. Burke observed, that the right hon. gentleman had called his hon. friends the champions of the constitution, and he declared that they ought to be such. They were placed there for that purpose, and they would abuse their trust, if they took powers which did not belong to them, in order to flatter another with a degree of authority which did not belong to him, or in order to deprive another of a right which did belong to him. The right hon. gentleman was bound to show why he chose to prefer a limitation of the Regency, in point of time, to a limitation of the restrictions. His right hon. friend, who was absent (Mr. Fox) had not declared that he approved of that limitation, but had remarked, that if they meant to make a republic, he should, in such a case, approve of a limitation of the Regency, and an annual election. Mr. Burke said, that he should approve of it for the same reason. If they chose to make a republic, why did they not make it in a manly way,

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and openly declare their intention? If he were asked, did he hate a republican speculation? he would answer, no. But he knew a republic could not be speculated upon, according to the principles of our constitution. He loved, he revered, he adored the true principles of a republic, but, was that the mode of instituting a republic? "O republic!" exclaimed Mr. Burke, "how art thou libelled! how art thou prostituted, buffooned, and burlesqued! O fabric, built after so many ages, and cemented by the blood of patriots, how art thou degraded!" As well might it be said, that the mutilated creatures of the opera house were the representatives of heroes, the true and perfect Cæsars, Catos, and Brutusses of Rome, as that strange and jumbled chaos, the representative of a real republic! Such an attempt to establish a republic as the present, was the certain way of having a monster set over them, and introducing the most hypocritical sort of government to which it was possible to resort.

Mr. Burke reprobated the idea of the fiction of law, which was to be made use of to open the parliament, and said, that he never had heard of a phantom being raised in a private family, but for the purpose of robbing the house. So far from being a representative of the forms of the constitution, it was a masquerade, a mummery, a peace of buffoonery, used to burlesque the constitution, and to ridicule every form of government. A phantom conjured up to affright propriety, and drive it from our isle. An hideous spectre, to which, in the language of Macbeth to Banquo's ghost, it might be said,

"Avaunt and quit my sight! Let the earth hide thee!
Thy bones are marrowless, thy blood is cold;
Thou hast no speculation in those eyes
Which thou dost glare with."

And so in fact it was with this political spectre; its bones were marrowless, its blood was cold, and it had no speculation in its eyes. He reprobated it therefore as a chimera—a monster taken out of the depths of hell. As to the letter of the Chancellor of the Exchequer to the Prince, Mr. Burke declared, that it conveyed private intimations, which he would not publicly avow, and that with respect to the right hon. gentleman giving his word, he might do as he liked; but, if he did not agree to a special limitation of the restrictions, his faith was broken; because, if they passed the bill, without any clause of limitation, they gave the lock and the key to the door of revision and limitation out of their own hands, and delivered both over to the other House. These were dangerous points, and he must contend that they were illegal, and, unfortunately, without remedy. The people at large, who were deluded and acted upon that delusion, could not be punished, because it would be a massacre; but what should they say of those who misled the people, and under a pretence of an ardent zeal for the constitution, endeavoured to advance the purposes of their own private ambition? for the reasons which he had mentioned, he should support the amendment.

Mr. *Sheridan* said, that anxious to bring the debate to a conclusion, he should with this view, propose a farther amendment, which he trusted would remove all the right hon. gentleman's objections. The House might hereafter debate on the right hon. gentleman's intended motion of limitation, which he must still maintain was adverse to the interests of the country, and tending towards a Republican form of government, consequently could neither be advantageous to the present nor future prospects of the Prince.

Mr. *Pulteney* declared, that what he proposed was for the benefit of the Prince and of the country, and not more for the advantage of the one than of the other.

Mr. *Sheridan* said, the House would then perceive the want of system. The hon. gentleman had on a former night suggested of a sudden, an intention to propose a limitation of the existence of the Regency, which he had told the House he meant to persist in, and should state more fully hereafter, with that the right hon. gentleman had professed an acquiescence, and after having stated that his mode of proceeding, was a mode that was not to be changed, had, in a manner, agreed to receive the hon. gentleman's proposition, and to change it hereafter. To what end then, vote the proposed Address to the Prince of Wales? If they adopted any additional regulation, or made any alterations, they would necessarily have to do the business which they were now about, over again, and to send up a second address to the Prince, to learn whether in the altered state of the restrictions, his Royal Highness was yet willing to accept the Regency. Now,

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in order to obviate the right hon. gentleman's scruples, he should propose an alteration to his amendment. The right hon. gentleman's objections to the amendment was, that it was a partial selection from a paragraph in his letter to the Prince of Wales, and that he had left out certain words of importance. He could not consider those omitted words in any other light than as words of surplusage; but in order to satisfy the right hon. gentleman, and to remove all his doubts, he had now taken those words of the letter, that had been omitted in the motion. The matter would then go clearly, and without reserve to his Royal Highness, and they would see by his Royal Highness's answer, what steps they ought next to take. The words he meant to add to his motion, were these, " but, if unfortunately his Majesty's recovery should be protracted to a more distant period than there is at present reason to imagine, it will be open hereafter to the wisdom of parliament to reconsider these provisions whenever the circumstances seem to call for it." Mr. Sheridan said that he must beg leave to read that part of the motion, on which the right hon. gentleman had relied, as marking in the right hon. gentleman's mind that the restrictions were calculated merely for the present exigency, and were consequently only of a temporary nature. He asked if those words conveyed so clearly, distinctly, and intelligibly, that the restrictions were permanent, and not temporary, as the words of his amendment warranted such a conclusion. Why then, would the right hon. gentleman use dubious words, when he might speak plainly and directly? The right hon. gentleman had before declared that his letter was partially quoted. He had now taken the part which was omitted, and added it to the other; and, therefore, if the right hon. gentleman meant to do justice to the public, and to the Prince, he could not, with the least consistency, persevere in his objections.

Upon the question being put, that the first amendment be withdrawn, in order to give Mr. Sheridan an opportunity to join the first and second amendment, and move both as one amendment, leave was given. The question was then put on the whole of the amendment, which, after debate, was negatived.

Mr. *Pitt* then moved, " That the Resolution agreed to by the Lords and Commons, respecting the care of his Majesty's royal person, and the direction of his Majesty's household, be laid before her Majesty, with an humble Address, expressing the hope which the Commons entertain, that her Majesty will be graciously pleased to undertake the important trust proposed to be invested in her Majesty, as soon as an Act of Parliament shall have been passed for carrying the said Resolution into effect."

Mr. *Burke* hinted at the necessity of moving certain restrictions on the powers to be vested in her Majesty.

The Resolution was agreed to; and the two Resolutions were ordered to be communicated to the Lords at a conference.

Jan. 28. The Resolutions of the Commons having been communicated to the Lords at a conference, the Lord President moved, To agree with the Commons in the first Resolution.

The Duke of *Northumberland* said, that it appeared to him a violation of all decency, to withhold from his Royal Highness any of the authority belonging to the Crown, without assigning some reason for so extraordinary a procedure; and therefore, under this idea, he should move, as an amendment, to add to the Resolution the following words: " That the restrictions were formed on the supposition that his Majesty's illness was only temporary, and might be of no long duration."

This amendment was negatived. The Resolutions, after a short debate, were agreed to, and ordered to be returned to the Commons.

The Prince of Wales's Answer to the Resolutions appointing him Regent.] Jan. 29. The Lord President and the Lord Privy Seal on the part of the Lords, and the Chancellor of the Exchequer, the Master of the Rolls, and the Secretary, on the part of the Commons, were ordered to wait upon his royal highness the Prince of Wales with the said Resolutions.

Jan. 31. The Lord President reported, that his Royal Highness the Prince of Wales had been waited on with the Resolutions of both Houses, and that his Royal Highness was pleased to return this answer:

" My Lords and Gentlemen,

" I thank you for communicating to me the Resolutions agreed upon by the two Houses, and I request you to assure them, in my name, that my duty to the King my

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father, and my anxious concern for the safety and interests of the people, which must be endangered by a longer suspension of the exercise of the royal authority, together with my respect for the united desires of the two houses outweigh in my mind every other consideration, and will determine me to undertake the weighty and important trust proposed to me, in conformity to the Resolutions now communicated to me. I am sensible of the difficulties that must attend the execution of this trust, in the peculiar circumstance in which it is committed to my charge; of which, as I am acquainted with no former example, my hopes of a successful administration cannot be founded on any past experience. But confiding that the limitations on the exercise of the royal authority, deemed necessary for the present, have been approved only by the two Houses as a temporary measure, founded on the loyal hope, in which I ardently participate, that his Majesty's disorder may not be of a long duration, and trusting, in the mean while, that I shall receive a zealous and united support in the two Houses, and in the nation, proportioned to the difficulty attending the discharge of my trust in this interval, I will entertain the pleasing hope that my faithful endeavours to preserve the interests of the King, his crown, and people, may be successful."

The Queen's Answer.] The Earl of Waldegrave reported the Answer given by her Majesty, to the Resolutions of the two Houses, viz.:

"My duty and gratitude to the King, and the sense I must ever entertain of my past obligations to this country, will certainly engage my most earnest attention to the anxious and momentous trust intended to be reposed in me by parliament. It will be a great consolation to me to receive the aid of a council, of which I shall stand so much in need, in the discharge of a duty, wherein the happiness of my future life is indeed deeply interested, but which a higher object, the happiness of a great, loyal, and affectionate people, renders still more important."

The Answers were ordered to be printed.

Debate in the Lords on the Resolution respecting Letters Patent for opening the Parliament.] The House having resolved itself into a Committtee on the State of the Nation,

The *Lord President* rose, and began with reminding their lordships of the several progressive steps they had taken, which naturally led to the important crisis of their carrying up the Resolutions voted by the two Houses to his Royal Highness, whose gracious answer their lordships had just heard, and which could not but give the House general satisfaction. Much, his lordship observed, might be said, on what had occurred in the progress of their proceedings, but as the great step of ascertaining his Royal Highness's determination, as to the acceptance of the Regency on the conditions expressed in the Resolutions, had been taken, it was unnecessary for him to add a single syllable upon what had passed, and therefore he would quit that part of the subject. The next necessary step to be taken, fell under the second Resolution, that by which the House had decided, that it was necessary to determine on the means whereby the royal assent may be given in parliament to such bills as may be passed by the two Houses, respecting the exercise of the powers and authorities of the Crown, in the name and on the behalf of the King, during his Majesty's indisposition.—The business of that day, therefore, was, to open what the measure was, by which his Majesty's ministers proposed to carry those means into effect, in order to appoint and elect a regent. That explanation it was his duty to make, and he begged to be understood as having undertaken it, under the impression of a thorough conviction that, amidst a choice of evils, the means he should propose appeared to him to be least objectionable and most fit to be adopted, because the most reconcilable to the principles of the constitution; but, that what he had to propose, he submitted with great deference to their lordships' better judgment. He was open to conviction, and should be ready to adopt a better mode of proceeding if a better mode could be suggested. He was aware that the means that had already been more than hinted at in debate, by which, under the practice of the second Resolution, it was intended to proceed to open the parliament, and to rescue the two Houses from their present maimed and imperfect state, and to rescue the country also from the miserable condition in which it had so long remained, and of which the people began to feel the effect and to complain, viz. that of having no government whatever, had been made the

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subject of much ridicule. It had been called a phantom, a fiction, and by a variety of other contemptuous names; if there should be those, however, who should object to the proposition he had to offer, he thought it right to declare, that he held it to be the duty of the persons who so objected to suggest the mode of proceeding that they thought more expedient, more wise, and more practicable. The delay that had already taken place, from various unavoidable causes, had revolted in the public mind; the people were impatient, and justly so, for a restoration of the constitution to its complete form, that of three estates, from the co-operation of which the government derived its energy, and all its operations proceeded with vigour and effect. In the present melancholy situation of affairs, the incapacity of his Majesty to exercise the royal functions was severely felt. It was necessary that parliament should interpose its authority; but parliament could not take a single step, circumstanced as it was at present; without the King, it was a mere headless trunk; perfectly inanimate and incapable of acting, no legal step could be taken by the two Houses that assumed the character or aimed at the efficacy of legislation, without the King at their head to substantiate the act, and give it constitutional currency. The King must be upon his throne in that House, or by some means or other signify his sanction to their proceedings, or, notwithstanding the steps they had already taken, all their time would have been wasted, and all their pains thrown away. The first step that was next to be taken, was, to open the parliament, and to do it by the King's authority. The law declared, that in one mode or other, the King must be there to enable them to proceed as a legislative body. That his Majesty, from illness, could not attend personally, was a fact too well known to be disputed. The next consideration, therefore, was, by what means the King exercised his parliamentary prerogative, when he did not exercise it personally. The legal and constitutional mode was, by issuing Letters Patent under the Great Seal. In the present dilemma, consequently, the most safe means of opening the parliament was, by directing Letters Patent to be issued in the King's name under the Great Seal, authorizing a commission to open parliament in the name of his Majesty. If there were any other means he hoped those who really thought so, would have the goodness and the candour to suggest them. He must however take the liberty of saying, that those who treated the means he should propose with ridicule, were ignorant of the laws of their country. A fiction those means might be termed, but it was a fiction admirably calculated to preserve the constitution, and, by adopting its forms to secure its substance. This fiction, in the first place, kept the throne entire, if the king should be living, but, in his natural character, incapable of exercising the royal authority. Secondly, no bill that had not the King's name at the head of it, and therefore purported to be of royal authority, could have a legal effect, a deficiency which this fiction would cure. Thirdly, if a king should, for a time, be deprived of the power of exercising his royal prerogatives personally, either from not being of age, or from being rendered incapable of attending parliament, from illness or any other cause, on his return to his powers of action as a sovereign, he would see all his prerogatives had been carefully preserved, and that they all stood minuted down upon record. His lordship remarked that a sovereign's sentiments were known only by record, and reasoned upon the absolute necessity of issuing a commission to open the parliament, and if that ground were admitted him, which, he conceived, could not well be denied, he asked, by whom was a commission, such as he had described, to be directed? Would it be said, that the Prince of Wales could command the Lord Chancellor to put the Great Seal to such a commission? his Royal Highness had not the smallest pretence to assume such an authority; both Houses had recently voted that the Prince had no such right. Would the Lord Chancellor himself venture to do it of his own accord? Undoubtedly he would not. The commission must be issued by some authority, and being once issued, with the Great Seal annexed to it, it must enforce obedience. If their lordships, or any of them, thought the mode that he meant to propose, an expedient one, they were bound to suggest some other method of doing it; and if what they should suggest should appear to be a better mode, he, for one, would be ready to adopt it. He thought it was in the power of the two Houses to direct the Great Seal to be put to the commission, and in their power only. The Great Seal

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was the high instrument by which the King's fiat was irrevocably given; it was the mouth of royal authority, the organ by which the Sovereign spoke his will. Such was its efficacy and its unquestionable authority, that even if the Lord Chancellor should put the Great Seal by caprice to any commission, it could not be afterwards questioned; though a misdemeanor in effect, yet it could make Letters Patent of such validity, that the judges themselves could not call them in question. If an act of parliament passed by authority of a commission issued under the Great Seal, and was endorsed with a *Le roi le veut*, it was valid. It must be received as a part of the statute law of the land, and could not be disputed. His lordship enlarged on the admirable operation of this phantom, or fiction, as it had been termed, and reminded the House, that they had already gone so far, that they could not go back; they must either resort to the fiction, that had been treated with so much ridicule and contempt, or they must resort to something else. He was aware it had been said, that it had been a proceeding of barbarous days. Undoubtedly the precedent was to be looked for in the reign of Henry 6, but he begged the House to recollect, that it was those barbarous ancestors who made the constitution. It was to them that we owed the common law of the land, which had been handed down from age to age, invariably from their time to the present period. It was upon them that lord Coke had founded himself in every part of his works. The present race, therefore, would betray great ingratitude if they forgot their obligations to the reign of Henry 6, a reign in which, as sound lawyers, as able statsemen, and as honest magistrates lived, as in any subsequent period of our history. They were not, perhaps, as well read in Latin and in Greek, and as much familiarized with the luxuries of the present times, as our lawyers were; but it was not, therefore, to be supposed, that they did not possess as sound understandings, were not gifted with as much good sense, and had not as clear a conception of the constitution, its principles and those of the law, as both then stood, as any lawyers at any period.—The Lord President said, he adverted to the first twenty years of Henry 6, than which there never was a period of greater tranquillity and peace. In illustration of his argument, his lordship recapitulated all the events of the Lord Chancellor of that day, surrendering the Great Seal into the hands of the infant king, its being afterwards taken by the duke of Gloucester and other great men, and committed to the custody of the Master of the Rolls, who was directed to put the Great Seal to a variety of commissions, &c. the duke of Gloucester's conduct, the mode in which parliament assembled, the authority under which it from time to time acted, the part taken by the duke of Bedford, &c. After entering into the detail of all these historical facts, and reasoning pertinently upon each, particularly observing that Henry 6 was incapable of putting his sign manual to the commission for calling the first parliament that assembled in his reign, or writing his signature, as his Majesty was at present. The Lord President said, he thought it fair to apprize their lordships that at a subsequent opportunity, when the bill appointing a regent should have gone through all its forms in the two Houses, it would be necessary to affix the Great Seal to another commission, giving the royal assent to such bill. The mention of this second commission brought his lordship to a renewal of his reasoning in proof of the absolute necessity of having recourse to some expedient to open parliament: and so thoroughly convinced was he of the necessity, that he would apply the maxim on this occasion of "aut inveniam aut faciam;" and as a farther confirmation that the means proposed were constitutional, his lordship adverted to a precedent that had occurred in 1739, in the reign of George 2, when lord Hardwicke had been chancellor. He had well known that noble lord, and a judge of more prudence and caution, and at the same time of more firmness, had never existed. Lord Hardwicke had put the Great Seal to two separate commissions in the king's name, when the King was ill, and thought to be in danger. This circumstance was an argument strongly in favour of the doctrine he had maintained. One great reason, among others, that ought to weigh with some of their lordships in favour of opening the parliament and passing a regency bill, was, that if such a bill did not pass, the present ministers would of necessity be obliged to retain their places, because without such a bill they could not possibly resign their offices. His lordship concluded with moving, "That it is expedient and necessary that Letters Patent for opening the parliament should pass under the Great Seal of the tenor and in the form

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following:" [The form that followed was the customary one of all commissions issued under the Great Seal of a parliamentary nature.]

Lord *Porchester* began by stating, that in his mind it would be a sufficient answer to all the learned lord had said, to ask, if it were indispensably necessary to put the Great Seal to such a commission as was now proposed, why the proposition had not been made two months ago? But he would not content himself with that short reply; the proposition was so objectionable, that he would just state a few observations that occurred to his mind upon it. The two Houses had been obviously mispending their time, and drawing down ridicule on their own authority, by the manner in which they had proceeded. They had been induced to resolve, that it was their right and their duty to supply the defect in the exercise of the royal authority, and now they were told, by those who had persuaded them to vote such a resolution, that it was necessary to open the Parliament, and that a regent could not be made but by an act of Parliament. Another resolution they had voted, stated, that it was with a view to keep the royal authority whole and entire. And how had that object been fulfilled? by taking a portion of the royal authority into their own hands, by parcelling out another portion of it to the Queen, and by delivering over the remaining portion to the Regent; thereby enfeebling and maiming the necessary powers of government, and rendering it absolutely impossible that the country should be well governed, or governed with any degree of energy and vigour. His lordship warmly reprobated the folly of this system, and observed, that the perfection of the political capacity of the Crown was what the lawyers affected to adore, and to hold up as incapable of diminution; and yet, in the teeth of that doctrine, the two Houses had crippled and maimed that political perfection of the Crown, and were about, by their mode of proceeding, to send it down to Westminster-Hall, not such a deity as the lawyers professed to worship and adore, but an idol mangled and defaced, stript of its proportions, and deformed by the hand of illegal innovation and unconstitutional violence. Such an act as they meant to pass, would be disputed in the courts of law, and could therefore answer no wise purpose, because it must necessarily carry a forgery on the face of it. His lordship, in proof of this doctrine, referred to the 33d Hen. 8, whereby it was declared, that to pass a Bill legally, the King must either be present on the throne, and signify his assent to the same in person, or signify it by commissioners, authorized to declare it under letters patent, sealed with the King's sign manual, and subscribed with his name written by his own hand. This, his lordship contended, was clear and indisputable law, and as a proof that it was so, he produced and read an extract from an Act of the 1st of Philip and Mary, passed for the purpose of taking off the attainder of the duke of Norfolk. He explained, that during the last illness of Henry 8, while the King was incapable of any act of royal authority, an act was passed by the two Houses attainting the duke of Norfolk, which act, for the reason stated, received the royal assent by a commission that was issued under letters patent, wanting the King's sign manual. The Act of Philip and Mary, was a public act, being declaratory of the law of the land, and therefore it was to be relied on as indisputable authority. He condemned the proposed second commission for giving the royal assent to a bill, by the two Houses in the King's name, as an attempt to assume the exercise of the royal authority, and as something worse than nugatory, and insisted upon it, that whoever put the Great Seal to a commission, without the King's special authority, would be guilty of an illegal act. The learned lord had himself confessed, that the lord Chancellor did not dare to put the Great Seal to such a commission of his own accord. His lordship recurred to the precedent of the early part of Henry 6th's reign, and said, the learned lord had forgotten its nature. It stated, that the duke of Gloucester applied to parliament to know what powers he had in parliament? when the answer was, "you have no right to interfere, the king being in parliament, and of years of meet discretion." His lordship contended that the ground upon which the answer rested, was, the circumstance of Henry 6, having been brought down to his parliament at six years of age, and seated on his throne.—His lordship said, that unless they meant to become a republic, the doctrine laid down that day, was the most dangerous that could be broached. There was, he observed, another mode of proceeding, which although he did not wholly approve of it, was far

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preferable to that proposed; and that was, to order a commission to issue under the Great Seal appointing a regent, and thus without delay restoring the royal authority. This mode would at least be free from all the other objections to which the mode proposed would be liable; it would save the royal prerogative from being invaded, and keep the legislative rights of the Crown sacred. There was an Act on the Statute book, passed in a reign many years antecedent to that of Henry 8, which stated that there should be no alteration of the prerogative: this was the 16th, Edw. 2. A declaration was also entered on the Journals of the House of Commons, which expressly maintained the same doctrine. His lordship concluded with declaring, that notwithstanding all the learned lord's arguments about the absolute necessity of the measure, he was convinced the end would be more constitutionally attained without it, and therefore he should vote against the motion.

The Duke of *York* now rising, observed, that not having received any previous intimation of a design to insert his name in the commission, he was of course prevented from embracing an earlier opportunity to declare that he could not give a sanction to the proceedings with his name, not wishing it to stand upon record, and be handed to posterity, as approving of such a measure. His opinion of the whole system adopted was already known; he deemed the measure proposed, as well as every other which had been taken, respecting the same subject, to be unconstitutional and illegal. He therefore, not only requested that his name might be left out of the commission, but was authorized to desire that the name of his brother, the Prince of Wales, might also not be inserted.

The *Lord President* said, that he should not for a moment resist the royal duke's desire, but readily agree to omit his Royal Highness's name, and that of his Royal Highness the Prince of Wales.

The Duke of *Cumberland* also desired that his name, and that of the duke of Gloucester might be omitted.

Lord *Walsingham* suggested, that the regular parliamentary mode of proceeding was to read the passage of the commission desired to be omitted, and putting the question "That these words stand part of the motion." This being admitted to be proper, he put the question in form on the passage that described his Royal Highness the Prince of Wales, and declared, "that the not-contents had it."

Earl *Fitzwilliam* rose and remarked, that if the mode resorted to for leaving out his Royal Highness's name were suffered to go upon the Journals, it would convey a marked disrespect to his Royal Highness.

The Earl of *Derby* said, that the present difficulty arose from the reprehensible conduct of ministers, who had proceeded in all stages of the business without plan or system of any kind whatsoever. The duke of York had desired that neither his name, nor that of the Prince of Wales might stand in the commission. It was astonishing to him that the learned lord should not have been aware so lately as the preceding day, that it was intended to move for such a commission. He conceived it to have been impossible for the learned lord to have come forward and stated it to that House without having first consulted the Prince of Wales upon the subject. The learned lord had had, on the preceding day, an opportunity of communicating with his Royal Highness. Why did he not communicate the next step which was to be taken? If the learned lord had done this, the House would not have been involved in their present embarrassing situation. The measure, to which their lordships were so strangely called upon to give their consent, was one amongst numerous glaring instances of disrespect to the Prince of Wales.

The *Lord President* said, that it was far from his idea, to show, by the insertion of their names in the commission, the least disrespect to the royal Princes. It was the uniform practice to insert the names of all the royal family who had seats in that House, in every commission that had any relation to parliamentary transactions. To have omitted their names would therefore have been a marked disrespect to their royal highnesses, and would, with great justice, have been urged as a matter of complaint and of censure, against his Majesty's ministers.

Viscount *Stormont* suggested that the archbishop of Canterbury should stand as the first named commissioner, omitting the whole sentence that preceded his grace. The learned lord had said that in all commissions the names of the royal personages should be inserted. Here, therefore, lay the mistake. The difference had not been observed between the

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commission then proposed, and the commission which ordinarily issued. This difference was surely enough to have started a doubt in the minds of his Majesty's ministers, and to have induced them to have asked previously, whether their royal highnesses would or would not have chosen to have had their names inserted in such a commission.

The Earl of *Radnor* thought it would be more regular and more satisfactory to the royal personages, who desired to have their names omitted in the commission, that the motion should stand as it was originally moved, and that they should annex a note, that the duke of York being present when the said motion was made, and expressing a desire that his name and that of the Prince of Wales be omitted, and the duke of Cumberland being also present, and having expressed a desire that his name and that of his royal brother the duke of Gloucester be omitted, leave was given to omit the same accordingly.

The Duke of *York* expressed his concurrence with the proposed amendment, and declared, that although he had no direct authority from the Prince of Wales, to signify his desire, that his name might be omitted in the intended commission, yet, as his Royal Highness and he had entertained one and the same opinion respecting all the proceedings in this business, and considered the whole of the system adopted as unconstitutional and illegal, he would take upon himself to answer for the Prince of Wales.

At length it was settled that the motion should stand as it did, and that, when reported to the House, lord Radnor should move his amendment, that it might appear on the Journals that it was at the desire of their Royal Highnesses that their names were omitted in the commission.—After some further conversation, the resolution was agreed to. It was next moved, "That the resolution be immediately reported to the House," which was done as soon as the House was resumed, and the House agreed to the resolution.

The Earl of *Radnor* then moved his amendment, which was also voted. The blank in the commission was filled with the words, "Tuesday the 3d of February."

Debate in the Commons on the Resolution respecting Letters Patent for Opening the Parliament.] Feb. 2. The Resolution of the Lords, "That it is expedient and necessary, that Letters Patent should pass under the Great Seal of Great Britain, of the tenor and in the form following," &c., was communicated to the Commons at a conference. After which the House resolved itself into a Committee on the State of the Nation.

Mr. *Pitt* then rose. He observed, that he considered it needless to take up much of the valuable time of the Committee, whilst he stated the reasons which induced him to come forward, and propose the motion, which had already been voted by the other House of parliament. In consequence of what had been agreed to in this and in the other House of parliament, it was incumbent upon them to pursue the necessary means for supplying the temporary deficiency of the executive power; and they had agreed, that no right to exercise the royal authority existed in any person during the present calamitous suspension of the exercise of the royal authority, and that no person could exercise such authority, but by the appointment of the two Houses. By the law and by the constitution it was evident that no such right existed; it was then to be asked, whether in providing for the deficiency of the third branch of the legislature, they were to act in their own name, or in the name of the King? To him it appeared immaterial, being substantially the same whichever mode should be adopted. The first question, then, that arose was, whether they should proceed with the royal assent or no? The second question was, in what manner was that assent to be procured? He was of opinion, that they should proceed with the assent of the King, for many reasons, the principal of which was, that the King was still upon the throne. Many had attempted to ridicule the power of obtaining the King's assent, and the political capacity of his Majesty; they would, however, find, that neither were inconsistent with the fundamental principle of the law, or contrary to common sense: for, if it had ever been agreed to, that natural incapacity in a sovereign took from him his political capacity, there would long since have been an end to hereditary succession, which must have been frequently interrupted. The political capacity of the King was in his opinion clear; the Great Seal was the organ of the will of the King; by that instrument the will of the King was proclaimed. Even were the Lord Chancellor to use it with so much

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impropriety as to merit punishment, notwithstanding such an abuse of his power, the instrument to which he affixed it would be, and must be, considered as law, which nothing could shake but an act of parliament. If the power of the Great Seal was, when improperly used, of such force, would any man say that when used on the emergency of the moment for the public safety, and under sanction of the united wisdom of the two Houses, it would either be disputed in the courts of justice, or that the officer so using it would be in the least censurable? It was evident, therefore, that there was a mode which might be adopted, which might run in the name of the King, Lords, and Commons. The only question then which could arise would be, whether the two Houses should take upon themselves, in their own name, the legislative act of appointing a regent, an officer unknown to the law and constitution, or whether they should proceed in the measure proposed, of ratifying their act by the name of the King? The two Houses were bound to act up to the necessity of the case, and to do no more. They would do no more by complying with the requisition of their lordships; they would adopt a form in their proceedings that could not be disputed by the judges. It was fortunate for this country, that it had a constitution so formed, that it was nearly impossible that any circumstance could occur, which would destroy the government of the country: in case of the throne being vacant, the two Houses of parliament had power to act by themselves, and in their own name; the throne when vacant, caused the whole power to return to the people, by them again to be delegated by the two remaining branches of the legislature, who were the legal organs through which the sentiments of the people could be collected. At the revolution, the parliament acted up to the true principles of the constitution, they acted on their own authority, in their own name, when the throne was vacant: the right which at present devolved to the two Houses of parliament was a different right; they were to provide for a suspension of the executive power while the King was upon the throne; acting then upon the same principles which governed our ancestors at the Revolution, they ought to act without the personal attendance of his Majesty, but not without his name, and were, in his opinion, empowered to direct the use of the Great Seal. In such use of the Great Seal, there would not be, as was asserted, a fraud, or a fiction; they would be but acting up to the principles of the constitution, and to the emergency, of the case: and in acting upon any great emergency, it was necessary and prudent, as far as possible to abide by the forms of law and the constitution. The two Houses had provided for the return of his Majesty to his government; they had provided for the dignity of their King during his indisposition; they had agreed to appoint one to exercise for him and in his name, the royal authority; but, they were to remember, that they were not about to appoint a King, but a person to act in behalf, and in the name of a King.—The other side of the House had gone upon the ground that there would be no grossness in the Prince continually putting the Great Seal in the King's name to different instruments, but there would be grossness and great impropriety in the parliament doing so, and that they ought to proceed without the King's name. No man, he hoped, would argue, in such a manner; no such argument, he was convinced, could be supported: it was plainly necessary, that the Great Seal ought to be applied to give law to the resolutions and opinions of the two Houses of parliament. He could perceive but three possible ways for the executive power to be restored: the first was, on an opinion generally condemned, that there existed some person in the country, who could assume that power without the authority of parliament; the second was, that a person could take upon himself such power by a resolution or address of the House; and the third was, by the mode proposed of passing an act for the purpose; and of those different modes he conceived his arguments would enable every man to judge which ought to be taken. If the Great Seal was admitted as a royal act, where then could be the doubt of the propriety of appointing the person holding it, to use it for the purpose of giving the King's sanction to the measure of the two Houses? Those who argued against that procedure, must either argue in support of a right existing in some person to assume the royalty—a right deprecated and condemned by the country—or they must agree to the country remaining in its present state; for no one could assume the royal authority; and the appointment rested with the

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two Houses, who were alone to direct the use of the Great Seal. Many acts had been quoted against the two Houses exercising the power proposed; but those acts were quoted from times, when kings were on the throne in full health, and were totally inapplicable to the present situation of the throne, when occupied by a monarch, labouring under a temporary incapacity. The same principles, he conceived, which guided our ancestors at the Revolution, must be the guide of their conduct at present. He should now move, "That the Committee do agree with the Lords in the said Resolution."

Mr. *Dempster* observed, that the commission which was the subject of the resolution passed by the Lords, went only to empower the persons named in it to open the parliament; but he understood there was afterwards to be another commission, authorizing the same, or other persons, to give the royal assent to the Bill for appointing the Regent, and restraining the powers that were to be given him; now, to the first commission he might not, perhaps, object; but to the second he saw very great and weighty objections. The right hon. gentleman had not opened, in his speech, the subject of the second commission, which he wished very much to hear explained, before he should state his objections to it.

Mr. *Pitt* thanked the hon. gentleman for having reminded him of that second commission, which he intended to have mentioned to the Committee, but which he had forgot to do. His arguments, however, had been all applied to it rather than to the first. The words of the Letters Patent, authorizing persons to act for the King, gave them first the power of opening the parliament: this seemed to be a special power for that one specific purpose; but there followed afterwards some words in the commission, which seemed to extend that power, and these were—"and to do for us, and in our name, all such other acts, as we ourselves could do, if we were present." These words, at first view, appeared to enlarge the power given for opening the parliament, and to extend it, even to that of giving the royal assent to bills: but he understood it was a rule received in the courts of law, that when a particular power was given in the beginning of any instrument and was afterwards followed by a clause containing general powers, the meaning of such clause was restrained to the precise power given by the special words in the beginning. This rule might raise a doubt, whether the commissioners could be authorized under the general words, to do all royal acts in parliament, and consequently to give the royal assent. Doubts of this kind had been entertained by Lord Hardwicke in 1754, who put the Great Seal to a commission, which the Lords in the Resolution sent down by them this day, had copied: it appeared that the parliament was opened in that year, under the authority of that commission; it was not opened, indeed, for the dispatch of business; for only one bill passed at the session; it was a naturalization bill, to which it did not seem that lord Hardwicke thought the commissioners could give the royal assent, notwithstanding the general powers given them in the commission, to do all royal acts; for a second commission passed the Great Seal, authorizing them to give the royal assent to that single bill, by name. It was the intention of the present ministers to follow that precedent, and to propose that the two Houses should direct the Great Seal to be put to another commission, after the parliament should have been opened, giving powers to the persons to be named in it, to give the royal assent to the bills which should be passed for appointing the Regent, &c.

Mr. *Dempster* expressed his surprise, that ministers should now depart from those precedents in the reign of Henry 6, on which they had laid so much stress in an earlier stage of the business. The commission given to the duke of Gloucester, in the first year of that king's reign, was only for opening the parliament; it never entered into the heads of the Lords and Commons to give him a commission, authorizing him to give the royal assent, and to make him their creature, by giving him the power of saying Ay, and withholding from him that of saying No. He was at once appointed the King's representative, and, as such, was armed with full powers not only for the passing of acts of parliament, but also for the protection of the prerogatives of the Crown. There was a constitutional jealousy entertained by the two Houses and the King, of each other; they were continually watching each other's proceedings, and taking every possible precaution, that whilst both were maintaining their rights, neither should invade those of the other. But according to the present mode of

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proceeding, the prerogative of the Crown was attacked in the most tender point, when the King was not in a condition to defend it himself, and when he had no representative who might defend it in his name. This, therefore, was not the time for an attack upon the royal prerogative; a person should first be named, to whom the defence of it might be committed, and then it would not be ungenerous, unmanly, or unconstitutional, to proceed in a parliamentary way, to restrain it within narrower limits, if good grounds for so doing should appear; because there would then be a guardian to watch over it, without whose consent no such limits could be prescribed.—The two Houses, he said, should confine themselves within the bounds of the necessity by which they were called upon to act. It was necessary that parliament should be opened, and therefore the first commission might be unobjectionable; but it was no part of that necessity that a commissioner should be appointed by the two Houses to give the royal assent to a bill; if the necessity was pleaded as a ground or justification for giving it to one, it might be extended to many more; and thus the two Houses might go on, trampling upon the royal prerogative, and making their own creature give the royal assent to every bill that should be passed during the King's illness. For his own part, he wished the two Houses would adhere to the precedent in the reign of Henry 6, when the duke of Gloucester was authorized by commission to open the parliament, and being afterwards recognised as regent or protector, gave the royal assent to such acts as he, in his wisdom, thought the king ought to pass, but which he might have prevented, by resorting to the royal negative, from passing into law, if they had for object to destroy the royal prerogative, of which he was become the guardian and protector.—It did not become him, he said, who was a member of little weight, to make motions, which others of more importance could make with so much more efficacy; but if he was of sufficient consequence in the House, he would move that the names of all the persons contained in the Resolution sent down by the Lords should be left out, and that of his royal highness the Prince of Wales inserted in their stead.

The *Master of the Rolls* observed, that if the hon. member did not make the motion of which he had just stated the propriety, he must consider him as having objected to the measure then before the Committee, without having substituted any other in the place of it. This measure, he said, was founded on the principles received in the courts of law, where the royal authority was always considered as in full force; and where the Great Seal was admitted as incontrovertible evidence of the due and legal exercise of it. If the mode proposed by the Lords was not adopted, then the Regent must be called upon to exercise the whole of the royal power, without any restriction or limitation whatever; and to give him such power, would be in effect to dethrone the King.

Lord *North* said, he did not quarrel with form merely because it was form, nor with the Great Seal merely as the Great Seal; but when form was offered in the room of substance, it ought to be rejected; and when the Great Seal was held out as an excuse for the violation of the fundamental principles of the constitution, it ceased to be in his eyes an object of respect. The affixing of the Great Seal was recommended as a form, which would secure to any act derived under it, the countenance and support of the courts of law. But was this a point on which there was no doubt—on which all the legal authorities were agreed? He believed it was not; for he had heard some persons of great legal abilities express serious doubts on the subject. He was aware that a court of law would not suffer an averment against a record; but would it prevent a man from disputing the existence of the record? He knew, that whatever would be admitted against the record, must be taken from circumstances, which did not appear upon the face of it, but which must depend upon circumstances that are out of the record. Thus, for instance, if it was understood in the courts of law, that the royal sign-manual was necessary for giving validity to a commission for empowering persons to give the royal assent to an act, and it should be made to appear that the sign-manual had not been used, would not such a circumstance defeat the record, and render it of no effect? If this was the case, then the argument founded upon the security to be derived from the form proposed must necessarily fall to the ground. —His great objection to the measure proposed was, that though it would seem as if it united the joint assent of the three

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branches of the legislature, yet it could in truth be called the act only of two of them; for whilst the commissioner named by the two Houses was to give the royal assent, but was not to be at liberty to dissent, he could not be the representative of the Crown, whose prerogatives he could not protect by the royal negative; he could be considered only as the creature of the two Houses, whose language he was to speak, whose mandates he must obey, and whose instructions he could not pretend to dispute. Thus the free agency of the Crown was to be sacrificed for the sake of a form, which did not; and could not promise that security, the attainment of which was the only plea that had been urged in support of a measure, that was an obvious and unnecessary departure from the essential and fundamental principle of the constitution.—The precedents which had been held forth in an earlier stage of this business as models of wisdom, which our ancestors had formed, and which were pronounced to be highly worthy of our imitation, were now forgotten; they had done their duty, and, it would seem, were now dismissed the service. But why they were no longer mentioned, he could not tell, unless it was because they would defeat the measure that was now proposed to the Committee. The duke of Gloucester, in the reign of Henry 6, was not appointed regent by a bill to which a phantom had given the royal assent. The duke of York, who, in the latter part of that reign was protector of the realm, did not receive his authority from a bill to which the royal assent was given by a creature of the two Houses, that had not the deliberate capacity of assenting or dissenting; both were vested with this capacity, immediately on their being recognized as regents; and by that capacity alone could they be said to be the representatives of the king to whom the constitution had all owned the prerogative of saying no as well as aye, to any bill presented to him by the other two branches of the legislature.—It was clear, therefore, that the mode of proceeding pointed out by these precedents, and the wisdom of our ancestors, was that of investing the Prince of Wales with the powers of the crown, and thereby enabling him to defend its prerogatives by means of the royal negative. To this mode it seemed to be objected, that if the Prince was to be put in possession of the royal authority before the powers to be given to him were restrained, he might afterwards refuse to give the royal assent to the bill which both Houses might think proper to pass, limiting and restraining those powers. Whatever argument might have been founded on an apprehension of that sort, before his Royal Highness had given the answer that had been read that day at the bar, it was impossible that any argument could be built upon it now. That answer had given the most heartfelt satisfaction; it conveyed to the world those sentiments which could not fail to endear his Royal Highness to every man who valued the constitution; it conveyed sentiments not only of respect for, but of submission to, the wisdom and judgment of parliament, these sentiments would warrant every man in concluding, that the Prince, whose heart cherished them, must be a friend to the constitution of his country. The royal word, then, of the Prince was pledged, that he would accept the regency on the terms on which it had been, or should be offered to him by the two Houses: what more could be required? He feared, that those who looked for greater security, and would not trust to that royal word, had something more in view than the security of the government. But if the Prince should be disposed, notwithstanding the royal pledge he had given, to withhold the royal assent from the bill which should be passed by both Houses for restraining the powers that were to be given to him, what would be the consequence? Why, that he must renounce the regency; for as it was by that very bill by which the restrictions were to be imposed, that his Royal highness was to be appointed Regent; so if he refused to pass it, he could not have the regency. It was clear, therefore, that if all that was looked for from the proposed measure was to secure the passing of the restraining bill, the parliament and the nation had already all the seurity that could be reasonably desired for the attainment of that object.—But it had been urged by a learned gentleman, that giving the royal powers to the Prince of Wales before those powers were restrained by an act, would be to dethrone the King. This was a very harsh expression; and when the learned gentleman used it, he had completely lost sight of the favourite precedents of the reign of Henry 6; for when the whole of the royal power was given to the regents, or to the regents and council, it never entered into the head of any man, that those who gave

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the power had, by that act, dethroned the king: on the contrary, every one considered that this was the most effectual way to provide at once for the security of the rights of the monarch, and of the constitution. In the present case, the very tenure by which the Prince was to hold the regency, would show that it was not the wish of any man to dethrone the king; for the Prince was to exercise the royal authority in the name and on the behalf of the King, his father, and during the term only of his Majesty's incapacity. This did not look like dethroning the King; and so much did the feelings of every man, of every description, revolt at such an idea, that he was convinced no measure would meet the smallest opposition, which should have for object to secure his Majesty's return to power the very moment it should please God to restore him to his health.—The letter which the Prince of Wales had written to the Chancellor of the Exchequer, and the answer that his Royal Highness had returned to the communication of the two Houses, had given him heartfelt satisfaction; and he made no doubt but the nation at large would rejoice at finding that his royal highness had rooted in his heart those principles which the House of Brunswick had been called to defend. This letter, and this answer, would place some matters in a different light from that in which they had hitherto appeared. The meetings at Edinburgh, at Glasgow, and in the west of England, had voted thanks to those who had defended the rights of the two Houses of Parliament; but those who formed those meetings would now be agreeably surprised at finding that those rights, so magnanimously and successfully defended, had never been assailed; that the defence was made when there was no attack; and consequently that the alarm which was spread for the safety and preservation of those rights, had no foundation whatever, except in the misconception of those who, judging solely from the resolutions of the two Houses, might be led to think, that these two bodies having judged it necessary to defend their rights, some claims must necessarily have been set up in opposition to those rights; for it was not possible that it could enter into the heads of men, at the two extremities of the kingdom, that the two Houses would have seriously set about defending their rights, if they had not been invaded. But the Prince's letter to the right hon. gentleman, and his answer to the House, would show the people that he had never set up any claim at all to the Regency, much less a claim that would destroy the rights of the two Houses; they would show, that so far from having made any claim, his royal highness had expressed the greatest deference for parliament, and readiness to accept the Regency upon any terms, and under any restrictions, which it should appear to the wisdom of the two Houses proper to annex to the grant of the Regency. He was sure, that the people would be agreeably surprised, when they should find that they had been misled, and induced to entertain apprehensions for which there not the least foundation. The measures which had hitherto been pursued by the Chancellor of the Exchequer, were, in his humble opinion, wholly unnecessary, unless the object of them was to spread an alarm through the nation, and make the people entertain fears, for which there was not a shadow of ground.—He had said, that the previous resolution for declaring that it was the right and duty of the two Houses to settle the government was necessary, for the purpose of clearing the ground, and demonstrating the principles upon which they were afterwards to proceed; but could not all these ends have been answered as effectually by a bill in the first instance, as by the passing of abstract propositions? The bill would of itself, when passed, be a proof both of the right and duty of the two Houses to settle the government; for it might be presumed, that the two Houses would not pass a bill, if they had not a right to do it; nor would they undertake to do it, if they did not conceive it to be their duty; and thus the right and the duty would both be proved, as well at least by the bill, as by the passing of abstract resolutions; and a bill would have this advantage over the resolutions, that it would bring the settlement of the government to a more speedy conclusion. The right hon. gentleman, by having preferred the one to the other, was now, after two months debating, just where he was at setting out; and it was only at this moment that he was preparing to bring in a bill.

Lord *John Townshend* was of opinion, that the arguments brought by the supporters of the measure then under consideration, maintained the very position which they were intended to overthrow. They urged, that the King's political capacity was entire, notwithstanding the defect in

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the personal exercise of it; and they proved their assertion, by showing, that the courts of law were open, and justice was administered just as when the King was in perfect health. And yet what were they about to do? Upon what principle were they going to act? They were going to legislate without the concurrence of the third branch of the legislature, and upon the principle, that government was actually dissolved, and all power was devolved back again to the people, its original source. Now, if the political capacity of the King remained entire, the government was not dissolved, and the power had not reverted back to the people; for being once delegated by them, it could not revert to them but on a dissolution of the original compact or government; and if that compact was not dissolved, the people had no right to interfere; for they could derive a right only from the dissolution of the government. He would put it to the other side of the House to say that the government was dissolved, or that it was not. If it was, then it could not be said that the political capacity of the King, for which gentlemen had so long contended, was entire; if the government was not dissolved, then the people had no right to interfere; and in either case it must appear, that the measure proposed was highly objectionable. With respect to the efficacy of the Great Seal, upon which gentlemen had relied so much, he had only to quote two positive Acts of Parliament, passed in the 33d Hen. 8, and 1st Philip and Mary, which would show how little dependance there could be on that efficacy. The former statute declared positively, that the sign manual was absolutely necessary to the passing of a bill; and the second had reversed the attainder of the duke of Norfolk, for this reason, as it was stated in the Act, that the royal sign manual did not appear to it. Now, if one act of parliament made the sign manual necessary to make a law, and if another which had passed under the authority of a commission under the Great Seal, was set aside because the royal sign manual had not been put to that commission, who could stand up for the efficacy of the form proposed, to which the royal sign manual could not be given?

Mr. *Ellis* said, that if gentlemen adverted to the bills of regency which had last passed, they would find that in those bills the powers of the Crown were not all vested in the representatives of the Crown. By those bills, not only the representatives of the Crown were restrained from generally exercising the prerogatives of the Crown, but the legislature itself was in a similar degree restrained from exercising its own undoubted rights and privileges. He explained himself to allude to three specific bills, which the Regency bills in question restrained the representatives of the Crown in particular, and the legislature in general, from either assenting to on the one hand, or discussing and debating on the other. He adverted also to the undoubted prerogative of the Crown, to give its dissent to all bills passed by the two Houses, and argued from this admitted fact, that the suspension of that constitutional power must be attributed to the inevitable necessity of the case.

The *Attorney General* said, that the hon. gentleman who spoke last, had, with a degree of diffidence which always accompanied extraordinary good sense, given in a few words, what he considered to be an unanswerable argument. The noble lord who spoke last but one, while he affected a perfect ignorance of what was meant by the political capacity of the Crown remaining entire, had given the very best definition of that political capacity, that any man had as yet attempted. The noble lord had said, the courts of law went on, private property was protected, and justice administered regularly. That was the precise distinction between the present case, and the case at the revolution. At that time all the functions of government were stopped. There was not a magistrate, from the Lord Chief Justice, down to the meanest constable, who had any authority whatsoever; the whole machine of government was impeded, checked, and obliged to stop. At present the case, he thanked God, was far different; all the functions of constitutional capacity, excepting only the few instances in which the personal exercise of the royal authority was necessary, were in action the same as before. The noble lord had asked, if there was not a dissolution of the government, what occasion there was for an interference of the people? If the noble lord would take the trouble of adverting to the real state of the country, he would find that there was occasion to resort to the representatives of the people, the true source of power, in order to provide for the present emer-

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gency, and that, in all cases of difficulty, this doctrine had been uniformly laid down, and its beneficial effects stated.—The hon. gentleman under the gallery had described the present situation of the two Houses, with peculiar force, and propriety. He had stated, that the necessity of supplying the defect in the exercise of the royal authority devolved on the two Houses. It undoubtedly did so, and it was their duty to proceed regularly and constitutionally to appoint a regent, delegating into his hands such of the regal powers, as in their apprehension should seem meet, and necessary for the carrying on of a good government. With regard to a regent, which they were advised, in the first instance, to choose, let those gentlemen who contended for such an appointment, show him where such a creature, as the law stood, was to be met with? Where was it to be found, but in the body of an Act of Parliament? They who had said, they might supply the deficiency by addressing the Prince of Wales, could not seriously mean what they advanced. Unless in cases of the extinction of all the branches of a royal family, or, what was the same thing, the extinction of the family's claim, by forfeiture, as in the case of king James, there was no mode of filling the throne, but that proposed. The only way was, for the two Houses to seal a commission, appointing commissioners to open the parliament. If they did not assent, and if they gave their voice in the affirmative, to supply a dissent, how did they do their duty in respect to the object proposed? The noble lord had said, suppose the Regent should give a dissent; but that was not likely, because he had given his word, and would not depart from it. He never, upon great public questions, founded his opinion on personal confidence. He had expressly laid in his claim, early in the debates on the subject, to consider it as the case of a Prince of Wales, and not as the case of the Prince of Wales. He disclaimed, therefore, all idea of personality, and would proceed to speak of the bill upon its own grounds. If the bill were enrolled, they were bound by it. The Attorney-general proceeded to argue upon commissions, which were enrolled, and those which were not; the commissions in Henry 7th's time, were enrolled; in Henry 8th's, but few were enrolled. In the reign of James 1, the practice ceased. The Attorney-general contended, that the signature of Henry 8, to the act attainting the duke of Norfolk, was a forgery. He asked, if there could be a grosser fiction, than that of a child being seated in parliament, the Chancellor bowing to him gravely, he returning the same bow, and the Chancellor saying, it was the King's pleasure, that they should proceed so and so? The noble lord, he added, had spoken of the conduct of the inhabitants of Glasgow, with some derision; but, surely, in too severe a manner.

Lord *North* said, that far from having mentioned the proceedings of the meetings at Edinburgh and Glasgow in a contemptuous light, he conceived that they supposed the propositions voted in that House, had done them a great deal of service. And surely, great beyond expression must prove the pleasure which the people would derive from the transactions which were going on! There would be no end of their pleasure, until the precedent they had set that day had gone into a principle that might overturn the constitution! He repeated, that the representative of the third estate, ought to be enabled to give the royal assent or dissent to the bill appointing the Regent, and that without it, he was no true representative of the Crown.

Mr. *Pitt* said, that he rose to prevent the impression which the noble lord had endeavoured to fix on that House, and on the country, by the use which he had made of the answer of his Royal Highness to the address of the two Houses. The noble lord said, that his Royal Highness had answered very graciously, and that there had been a general alarm spread throughout the country, lest the question of right should be supported. He denied the truth of that proposition, and appealed to the House, when that question was in agitation, whether any person voted in favour of that right. He said, the right had not been claimed by the Prince of Wales, but had been asserted by others. That no person had been bold enough to give his Royal Highness the advice to assert such a right, after the solemn decision of the two Houses of Parliament, was by no means a matter of surprise, and, if any man was to be found so bold, it was not likely that a prince of the House of Brunswick would have taken such advice. That his Royal Highness's acceptance of the Regency, would be matter of joy to the people he could admit, but not that it would prove a matter of surprise. They

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would not, however, be ready or willing to cast a censure upon parliament, for reprobating unconstitutional principles, held and started by those, who now lamented their having ever asserted them, and who were afraid and ashamed to avow, and even seemed willing to retract them; principles which, never again, he trusted, would for a moment be borne in that House, or in the country.

Mr. *Burke* next rose. He said, he would look the minister full in the face, and tell him that he, for one, avowed all the principles that he had ever entertained on this subject, as did a right hon. friend of his, who was now absent, but to whom allusion had been frequently made on this subject. But the Chancellor of the Exchequer was extremely judicious, he observed, in the time of his attack; he levelled his charges against his right hon. friend (Mr. Fox) when he was absent, just as he attacked the prerogative of the Crown, when it could not defend itself. The minister, he said, had declared, that he had proposed the preliminary resolutions, solely because a claim had been set up in favour of the Prince of Wales, who was said to have a right to the Regency. Now, if that was his object, he had worded his resolution on that head so ambiguously, that a man might at the same time vote for it, and maintain the right of the Prince of Wales to the Regency: for what did that resolution declare? Why, that it was the right and duty of the two Houses of Parliament to provide for the exercise of the royal authority. Now, in a resolution so worded, there was nothing incompatible with the right of the Prince of Wales; for it was unquestionably the province of the two Houses to decide upon that right, and adjudge it to him. The definition of a right of action was, in all countries, not a right to take possession of the thing claimed, but "jus prosequendi in judicio," or a right to carry a cause before a tribunal competent to decide upon it: the two Houses, in case of the Prince's right to the Regency, were that tribunal; and without their adjudication, his Royal Highness could no more assume the exercise of his right, than a plaintiff in a court of law could put himself into possession of the lands or goods withheld by the defendant. This he said, was no shifting of ground, but a strict adherence to a principle, which he would illustrate by two cases, and, for argument sake, take the liberty of supposing.

Should the King of this country, or should the Prince of Wales, be reconciled to the church of Rome, which would induce the forfeiture of his right to the Crown, and vest it immediately in the next heir, to whom it would have descended in case of the natural demise of the person so forfeiting, the right accruing to the next heir must be admitted to be positive, indisputable, clear, and distinct; and yet would any one say that the duke of York, in whom the right of the Crown would vest instantly upon the forfeiture, could take upon him the government of the country, before the two Houses of Parliament should have decided upon the fact, whether forfeiture had really been incurred, by which the right could be vested in the duke? Certainly not. Here then, would be a real, declared, and positive right in the duke, which nevertheless he could not, however, exercise but in consequence of an adjudication in parliament. In such a case, might not a man say it was the right and the duty of the two Houses to provide for the safety of the government, and at the same time assert that the duke of York had a right to the Crown? Another case, which he supposed was a resignation of the Crown made by the King. In that case the Crown would descend just as if the King was actually dead: but still the Prince of Wales could not take upon him the government of the country, until the two Houses should have accepted the resignation, and determined that it was voluntary. Here two rights, very distinct in their natures, would be found, the right of the Prince to the Crown, and the right of parliament to adjudge it to him; and it would be absurd, indeed, to infer that, because the latter had the right of adjudication, it had also the right of adjudging it when it pleased.

But what was the doctrine of the Chancellor of the Exchequer on this head? It was not only that the Prince's claim to the Regency was not well founded, but that, in point of fact, he had no more right to it than any other individual in the kingdom. A monstrous, false, perfidious, and abominable doctrine, which if once admitted to be founded in the constitution, would open a door to ambition, that would overturn the government. At the time of the Revolution, the doctrine laid down by the wisdom of our ancestors was, that the hereditary succession to the Crown was absolutely necessary for the peace of the

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government, and the security of the constitution. But should those who might wish to defeat that succession, lay down this principle, that every man in the nation had as much right to the Regency as the Prince of Wales, and acting upon it, should appoint some person, not interested in the defence of the Crown, to the office of Regent during the King's incapacity, who would venture to say, that the hereditary succession to the Crown, pronounced by our ancestors to be so necessary to the security of the constiution and the happiness of the people, might not be endangered? and should the incapacity of the King last twenty or thirty years, which was very possible, who would be bold enough to assert, that the whole power of the fleet and army, of the revenue and patronage of the Crown, being in the hands of one not interested in the preservation of the hereditary succession might not in the end be completely defeated?

The people who had voted thanks to those who had supported the minister, touched upon points which they did not understand; this was the most charitable opinion he could entertain of them; for if they did understand them, they adopted language which was pregnant with mischief. They had said that the minister, by asserting the rights of the House of Commons, had maintained the rights of the empire. What did they mean by the word "empire"? Did they mean to say that Ireland, a part of the empire, was to be bound by the resolutions of the English House of Commons; and that the Irish legislature, after having asserted its independence, was bound to recieve a regent from the British parliament? The spirit of a legislature, which as independent of that of Great Britain as were the Cortes of Spain, or the States General of France, would revolt at the idea; and thus the connexion between the two countries would be endangered by a measure, the obvious tendency of which would be to sever them for ever. But perhaps it was meant that every part of the empire might choose a regent for itself: this doctrine might be carried very far indeed; for perhaps Nova Scotia, Nevis, or any part of the British empire, having a legislature of its own, might lay claim to and assert what some of the meetings in England have declared to be the rights of the empire. It might not be the intention of those who voted thanks to the majority, to invade the independence of the legislature of Ireland, but they should take care, lest they gave countenance to a principle likely to produce as dangerous effects, as if they were to attempt to destroy the independence of Ireland, by voting a regent in this country, whom she must take because he was elected here.—If the principle maintained by the Chancellor of the Exchequer, namely, that any man had as good a right to the Regency as the Prince of Wales should be adopted by the Irish parliament, then might the Lord Mayor of Dublin instead of the Prince, be chosen Regent: or perhaps many regents might be elected, and the royal prerogatives parcelled out among them: to one might be given the army, to another the church, to a third the civil list, and thus Ireland might be divided from herself;—but what would most infallibly happen, would be, that she would be separated from England. For what was it that kept two countries together, which were governed by two distinct and independent legislatures? It was unquestionably the unity of the Crown: that was the bond which kept them together; and if that was once broken by letting loose dangerous and speculative ideas of government, Ireland would be lost for ever to this country. With what eye, then, ought the nation to look upon those, who by their abominable doctrines, exposed the empire to such a calamity. He trusted that the good sense of Ireland would make her reject these new-fangled doctrines, and vote the Regency to the Prince to whom it of right belonged, and from whom it could not be withheld without danger to the happiness and connexion of the two kingdoms.

Mr. Burke observed, that the plan now proposed was to adopt what deserved a worse name than a phantom—they were going to create Milton's monster of sin and death, death to the constitution, and sin to the feelings of the country. They were going to steal the Great Seal, to commit a forgery and fraud, and to support violence. If the House wished to preserve unity in the empire, they ought to appoint a person to represent the King who was interested in the empire; they ought to trust, upon his word, the Prince of Wales whom hereafter they must trust without; and thus, they would save their country, and none would suffer but ambitious men. Mr. Burke urged the argument of delay, and said that the Convention Parliament, in the year 1688 sat on

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the 26th of December, and on the 12th of January had completed all their objects, finishing the whole in sixteen days.—He contended that the House had no right to authorize the Lord Chancellor to put the Great Seal to forgery, fraud, and violence, and that giving them the form of the royal authority, instead of the substance, was to give them the sweepings of the cobwebs in Westminster-hall, and the smoke of the dish. The danger which had been talked of, if they were to address the Prince of Wales to take the Regency upon him, reminded him of the giant who used to swallow a dozen windmills for a breakfast every morning, and was afterwards choaked by a small bit of butter in the month of July. In the present instance, the commission was said to be, in form, an act of the Crown, and in substance an act of the two Houses. There never was a precedent in this country, where the two Houses took upon themselves to exercise the legislative authority of the Crown. Necessity, he observed, had been generally termed the tyrant's plea; but, strange to tell, it was now considered as the guardian of our liberties. Mr. Burke insisted that the Committee ought, in the present instance, to act liberally and fairly, and to trust the Prince upon his word, solemnly given in his answer to the addresses of both Houses, since hereafter they must trust him without professions. A confidence of this nature would give them union, would give them liberty, would give them peace.

Mr. *Rolle* rose to rescue the meetings in the west of England from the censure indirectly cast upon them, by the noble lord in the blue ribband. The meeting in the county of Devon had resolved to return thanks to his right hon. friend for having asserted the right of the two Houses to provide for the exercise of the royal authority, during the incapacity of his Majesty, and brought that question to a decision, in contradiction to the right asserted by a right hon. gentleman, not then present, to exist in the Prince of Wales to assume the exercise of that authority, whilst his Majesty's illness continued. The question of the right of the two Houses to provide for the defect in the exercise of the royal authority, had not been, as it was affirmed, unnecessarily brought forward, or upon light grounds. The assertion of the right of the Prince of Wales to assume the exercise of the royal authority during his farther's incapacity, had not indeed, been made a matter of regular claim, avowed on the part of his Royal Highness, but it had been urged by a member of that House, who from his extraordinary abilities and weight in the country, certainly drew great attention on every thing which fell from him, and enabled whatever he said, especially respecting his Royal Highness, in whose confidence he was supposed to stand high, to make a considerable degree of impression. Mr Rolle added that it gave him great pleasure to hear that his Royal Highness had declared his willingness to accept the Regency on the terms proposed. There had occurred one circumstance, however, since the signification of his Royal Highness's answer had been given, which he was sorry for, and which, he feared, would cause uneasiness in the country; and that was, a certain secession which had taken place. He meant the circumstance of the Prince of Wales and the other Royal Dukes having desired that their names might be omitted in the present commission.

Sir *James Johnstone* said, that if he found any thing objectionable in the wording of the commission, it was, that it was not strong enough. It stated, that the Lord Chancellor be directed to put the Great Seal to the commission resolved upon. He thought that the Lord Chancellor ought to be commanded to put the Great Seal to such a commission. The occasion justified the exertion of authority, and the Lord Chancellor dared not refuse the command of the two Houses of Parliament.

Mr. *Sheridan* rose merely in consequence of what had fallen from Mr. Rolle. He denied that Mr. Fox had ever asserted the Prince of Wales's right to assume the exercise of the royal authority, without the consent of the two Houses of Parliament. The question of right was, therefore, unnecessarily agitated because the doctrine of the Houses having a right to provide for the defect in the exercise of the royal authority—had never been denied. With regard to his right hon. friend standing high in the confidence of the Prince of Wales, the fact undoubtedly was, that his right hon. friend stood higher in the opinion of his Royal Highness than any other person; and the reason was, that his Royal Highness reposed the greatest confidence where he found the greatest merit. Of the secession to which the hon. gentleman had alluded,

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the reason was obvious. It was extraordinary, that the minister should have been with the Prince of Wales the day before the commission had been proposed in the other House, and that he should not have consulted his Royal Highness, whether it was agreeable to him or to his royal brother and uncles, to have their names inserted in a commission issued on principles repugnant to those contained in a protest, which the Duke of York had subscribed and recognized.

Mr. *Powys* said, that the Committee had had a great number of precedents submitted to them, on which, in the early stage of the business, much reliance had been placed; but, they had all been abandoned, and two new precedents, not stated in the Report were now chiefly relied on. But in the case of both, there had been a king upon the throne, incapable, from illness, indeed, of meeting his parliament, but capable of judging and deciding upon every proceeding of government necessary to be taken. He enlarged on the distinction between general powers so given by an existing, competent authority, and general powers given by a fictitious and unreal phantom. To open a parliament, there must exist a person capable of authorizing the act, either the king himself or the king's representative. In the present case, there would be neither.

The *Solicitor General* begged leave to explain to the Committee, why he advised them to order the commission, now moved for, to be issued under the Great Seal, and why it would be right afterwards to put the Great Seal to another commission, in order to give the royal assent to the bill appointing a regent. He was glad that it had not been said in that House, that such a mode of proceeding was not legal. No man had ventured to make such a declaration; nor could any man have dared to have done it, who knew the law and the constitution of the country. When he had formerly troubled the House, the Committee would recollect that he had stated, that a regent could not be appointed but by an act of parliament, and, in order to pass that act, there must necessarily be a commission issued under the Great Seal to open the parliament, and a subsequent commission to give the royal assent to such bill as should be passed by the two Houses. That was the legal mode of proceeding; the other, that of addressing the Prince to take upon him the Regency, a term unknown in law, was clearly illegal. If they addressed the Prince to take upon him the Regency, he could not be Regent, but by some such fiction as that now proposed to be resorted to. In the course of the present debate, the statutes referred to, as bearing upon the question, were the 33d of Henry 8, the Act of Charles 2, and the Act of the 1st of Queen Mary; each of which pointed two ways; but, if it was contended, that those were negative statutes, he begged leave to ask how they were to appoint a regent at all? He denied it to be possible; because the consent of the Crown must be obtained to the act; and it was well known that his Majesty could not signify his consent in person, neither could he put his sign manual to a commission. The only mode of obtaining the King's consent, was by putting the Great Seal to the commission for passing it, and making it a public act. If it was so authorized, that rendered it a public act; and if, upon the face of it, it expressed that it passed by the consent of the King, Lords, and Commons, the judges of the land could not dispute it. The Great Seal, once put to it, gave it all the authority of law, and no inquiry could be instituted as to the mode of its having been passed. If letters patent passed without the King's warrant having been previously granted, yet having the Great Seal annexed to them, however criminal it might be in the person who should take upon himself to put the Great Seal to those letters patent, they would prove of full force, and bind the King himself, although it might be known that his Majesty had not granted his warrant for making out such letters patent.—Sir John remarked, that they were then discussing no question of politics, no question of party; they were all agreed as to the object; their sole object was to make the Prince of Wales regent, on the terms of the resolutions. The only difference of opinion was, which were the most safe, legal, and constitutional means of attaining their common object. He must contend, that the mode proposed in the resolution was the only legal mode. Those who recommended the other mode of addressing the Prince to accept the Regency, perhaps were not aware, that the Prince must, in that case, take upon himself to represent the King in the House of Lords, or if it were to give his consent to the Regency Bill, he must consent to appoint himself Regent: a

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kind of conduct, which could not but draw down questions of his authority, and expose him to future difficulty. Different were the degrees of weight and sanction, which must necessarily attend the Prince's appointment, when that appointment had the authority of a formal act of parliament, passed avowedly with the consent of King, Lords, and Commons. Ridicule had been lavishly cast upon the mode proposed because it was deemed a legal fiction. There were, he said, many wholesome fictions of the law; the best security, even of the private rights of the subject, arose from some of those fictions of the law. The present might be called a wholesome fiction, inasmuch as it saved the constitution from danger, and proved that so admirably constructed was that constitution, that it contained in itself a provision for cases of the greatest emergency. But it was said, that the mode proposed went beyond the necessity of the case. He had, on a former debate, taken the liberty of laying it down as a maxim, that the power which necessity creates, necessity limits. He should adhere to that position, and, in adhering to it, contend, that the proposed mode of ordering a commission under the Great Seal, and afterwards another commission to give the King's assent to the bill, did not exceed the necessity of the case, but that the proposition of addressing the Prince, to take upon himself the Regency, did go far beyond it. When the House contended, that it was their right and duty to provide for supplying the defect of the royal authority they clearly meant to empower themselves to order the commission under the Great Seal, now proposed to be issued. He declared that it appeared to him ridiculous, to exclude the Prince from his situation as a peer in the House of Lords in order to make him act as a king. He desired not to be understood, as abandoning the precedents on their table. He relied on the precedent in the early part of the reign of Henry 6. In that reign, there were as great lawyers as lived in this day, or as would live, probably, in the time to come; there were also in that reign, some of that description of persons, who might, properly speaking, be termed usurpers; but both descriptions, the latter as well as the former, he well knew, in all things wished to have the sanction of law, for every one of their proceedings. It had been his duty to inform himself fully of all the precedents our history afforded. He had not, he was free to acknowledge, with all his application to the subject, been able to satisfy himself what had been the actual fact, with regard to the commissions issued under the Great Seal in the early part of the reign of Henry 6; but of this he was certain, that many of them neither had, nor could have, the king's sign manual affixed to them; and yet, some of the soundest and most salutary acts on our Statute Book had passed during that period.—He could not but observe, that those persons who were willing to give away the rights of the King without scruple, and to invest the Prince with all the royal authority, in the lifetime and during the reign of his father, seemed to think only of the case of infancy. When he had spoken of the allegiance he owed to his sovereign, it had been ridiculed under the idea, that it was idle to boast of allegiance to him, who was incapable of affording protection. To those who pleased themselves with that species of reasoning, he would say, if the intended Regent was to leave a child, an infant of six months, how would he like such a doctrine to be then insisted upon? The present commission expressed, that it was made by consent of both Houses of Parliament; therefore, upon the face of it, it stated the case to which he referred. As the bill was merely to constitute a regent, it was quite a matter of indifference, whether it was passed by one person or another, so long as it passed in the name of the King upon the throne. —Sir John adverted to the precedents in the reign of George 2, when lord Hardwicke had, in 1754 put the Great Seal to two commissions, one containing general powers granted to certain commissioners to hold a parliament, the other to give the royal assent to the single bill which had passed in that parliament; a bill of naturalization. He compared these two commissions with the commission then under consideration, and that which it would be necessary to issue when the bill should have passed the two Houses, and be ready for the royal assent. Lord Hardwicke, he said, appeared to him to have entertained doubts, whether the general powers conveyed by the first commission, were sufficient to authorize those commissioners to give the royal assent to the bill which afterwards passed; and he collected, that lord Hardwicke had entertained such doubts, from the circum-

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stance of his having issued a second commission. But lord Hardwicke had chosen to reserve those doubts, and not to decide upon them, by the terms in which the two commissions were drawn, and their effect on each other; care having been taken by the noble lord, to insert a clause in the second commission, purporting that the one should not affect the other.

Mr. *Windham* said, that he should not have risen, but for what had fallen from the learned gentleman who spoke last. As the argument then stood, they knew not on what grounds the authors of those proceedings rested them. On one hand it was said, that they were acting from necessity; on another, that they were acting upon law. It was, he conceived, impossible that both positions could be true. The learned gentleman, in his opening, had clearly stated, that the necessity of the case obliged them to have recourse to irregularities, and he had heard the same doctrine, stated elsewhere, and yet the learned gentleman had declared, that there was no existing necessity, but that the proceeding proposed was strictly legal, and that to address his Royal Highness to take upon him the Regency, was clearly illegal. Amidst these jarring opinions, gentlemen might surely doubt the necessity asserted on the one hand, and the legality of the proceeding asserted on the other. That wonder-working machine, the political capacity of the Sovereign, was the grand spring of all the arguments, on which the gentlemen of a certain profession relied. Mr. Windham explained what he conceived to be meant by that expression, in terms stripped of the technical obscurity, in which the expression was involved, and contended, that the royal prerogatives were attached, not merely to the life of the Sovereign, but to the King's political authority. He rejected the idea of the act they were about to take being a legal one, and said, that when from necessity they were obliged to have recourse to an irresponsible act, he conceived it to be much more safe that it should stand upon its own ground, distinguished as an irregular proceeding, justified only by necessity. They would then know what it was, and posterity, would know on what its merits had rested. The learned gentleman who had spoken early in the debate, had said, that the argument against the motion amounted in fact to an assertion, that they had the power to make the lawmaker, but not the law whereby he was to be made. That was the very distinction, which, in his mind, applied to the present instance. He reasoned upon the distinction, and put the case of a patron having a right to present to a living. The patron could not fill the living himself, and, if he was correctly informed, a clergyman who had an advowson in his own gift, could not appoint himself to it, but by a special process. After urging this to prove that declaring that the act was an act of the King, when there was no king, and they all knew there could be none, was a counterfeit and a delusion, Mr. Windham closed his remarks by affirming, that he never gave a vote with more heartfelt conviction against a motion, than he should do upon the present occasion.

The *Master of the Rolls* reminded the House, that no amendment had been proposed. Gentlemen would do well, therefore, to consider the question before the House. It was whether there should be a commission issued under the Great Seal, to open the parliament. It was universally admitted, that there ought; the only question was, who should issue that commission. No person, therefore, had stated any mode of providing for the opening of parliament, except his right hon. friend, and the Committee, having no other proposition before them, were bound to decide upon that. All the arguments advanced against the present resolution, went against the resolutions already voted. The Committee, therefore, after having voted those resolutions, would not surely now undo all that was done.

The resolution was agreed to, immediately reported to the House, and ordered to be communicated to the Lords at a conference.

Memorandum touching the Situation of the Speaker.] At the end of this day, Mr. Speaker Grenville desired to call the attention of the House to a circumstance respecting his own situation, as possibly the House might to-morrow, be desired to attend the commissioners to be authorized by his Majesty's commission for opening the session of parliament. He said, that after the election of a Speaker, it had been the usage of parliament for the House to present the Speaker to his Majesty, or his Majesty's commissioners, for the royal approbation, at which time the Speaker (being approved) requested

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his Majesty's gracious indulgence for any omissions of his in the execution of his office; and, if it was at the beginning of a parliament, did also, on behalf of the Commons, lay claim to their ancient rights and privileges; but, if the election of the Speaker was in the middle of a parliament, the Speaker was presented for the royal approbation, but the claim on behalf of the House was omitted.—Mr. Speaker added, That in the present case he had received no directions from the House for his conduct in this respect, and that it was his intention to follow the precedents of the restoration and the revolution, in which cases the Speaker was not presented for the royal approbation; but he further added, That if the House thought it proper to give him any special directions, it would be his duty to obey them.—After a short pause,

Mr. *Pitt* said, that it seemed to be the general sense of the House, that the Speaker should govern himself by those precedents to which he had referred.

Mr. *Burke* said, that every step they took was attended by fresh difficulty. They had just set up a phantom to represent the Great Seal, and now their Speaker was to bow before it, and to claim their rights and privileges from a creature of their own creation. After abandoning the precedent of the Revolution, in addressing the Prince of Orange to take the Crown, they were going to resort to the precedent of the Revolution in another instance. If it was fit to be adopted in the one case, he wished to know why it had not been thought fit to be followed in the other. They had set up a fiction for the Great Seal, and thus having invaded the constitution, the next step they took was to disgrace the House of Commons.

Mr. *Pitt* reminded the right hon. gentleman, that the death of the late Speaker having added to the difficulties under which they laboured, the House had thought proper to act upon the necessity of the case, and choose a new Speaker, without waiting for the royal pleasure to be signified on that point. With regard to the right hon. gentleman's question, why it had been fit to adopt the precedent of the Revolution in one case, and to abandon it in the other? the reason was obvious; in the one case the precedent of the Revolution applied, and in the other it did not. The Convention parliament had agreed to address the Prince of Orange to become king. Why? Because, in that case, the throne was vacant. They could not now address the Prince of Wales to take upon him the Regency, because the law knew no such thing as a regent, and because the throne was full, the King still living, and having a right to retain his crown as long as he existed. The business which they had to do, therefore, was to appoint a person to exercise a portion of the royal authority during his Majesty's incapacity, and that appointment could only be made by Act of Parliament,

Colonel *North* could not consent that the Speaker should present himself to the commissioners, because he could not consent that he should humble himself before persons of their own rank and station; but if the parliament had been opened by a person representing his Majesty, he should have thought differently.

The *Speaker* feared that he had not made himself clearly understood by the hon. gentleman; and explained the three things which it had been customary for a new Speaker to do at the beginning of Parliament, and the two of them which it was usual for a Speaker to do, if chosen in the middle of a parliament.

Mr. *Pitt* said, he understood that it was the intention of the Speaker to conform to the precedent of the Revolution. At that time the convention parliament had chosen a speaker, and when king William was afterwards seated on the throne, that speaker was not presented to the King. That was the precedent which, he conceived, the present Speaker would follow; consequently, he would neither be presented to the commissioners, nor claim the rights and privileges of the House, which had been already claimed of his Majesty, nor ask for indulgence towards whatever he might have occasion to state in parliament.

Mr. Anstruther having desired to know what measure was next to follow,

Mr. *Pitt* said, that he hoped the two Houses would meet early to-morrow that they might carry up the resolution to the conference soon, and having the commission ready sealed, might open the parliament forthwith, and as soon as they had done so, and were returned to that House, he should immediately move for the resolutions which they had voted, to be read, and then move for leave to bring in a bill for appointing a regent, founded on those resolutions.

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The Lords Commissioners Speech on Opening the Parliament.] Feb. 3. The Lords sent a message to the Commons, by the usher of the Black Rod, desiring their immediate attendance to hear the Commission read for opening the parliament. The Lords Commissioners were, the Archbishop of Canterbury, earl Bathurst as Speaker in the absence of the Lord Chancellor, the Lord Privy Seal, the marquis of Carmarthen, lord Sydney, and the Lord Chamberlain of the household. When the Speaker came to the bar with the Commons, earl Bathurst stated, that the illness of his Majesty had made it necessary that a commission in his name should pass the Great Seal, and which they would hear read. The clerk then read the commission; and having concluded, Earl Bathurst delivered the following Speech to both Houses:

"My lords, and gentlemen,

"In pursuance of the authority given us by his Majesty's commission under the Great Seal, which has now been read, amongst other things, to declare the causes of your present meeting, we have only to call your attention to the melancholy circumstance of his Majesty's illness, in consequence of which it becomes necessary to provide for the care of his Majesty's royal person, and for the administration of the royal authority, during the continuance of this calamity, in such manner as the exigency of the case appears to require."

As soon as the Commons returned to their House, the Speaker reported, that the House had been at the House of Peers, at the desire of the Lords Commissioners appointed for opening the present parliament; and that earl Bathurst, being one of the said commissioners, made a speech to both Houses of which he had, to prevent mistakes, obtained a copy; which he read to the House. The standing orders were then moved and read, as at the commencement of a session, and the votes were ordered to be printed. The bill for preventing Clandestine Outlawries was read a first and second time.

Debate in the Commons on the Regency Bill.] Mr. *Pitt* rose and said, that the causes of the opening of the parliament having been mentioned, and the measures which were intended to be brought forward having been entered into and much discussed, it was not necessary at present for him to do more than to move "That leave be given to bring in a bill to provide for the care of his Majesty's royal person, and for the administration of the royal authority, during the continuance of his Majesty's illness."—Ordered *nem. con.*

Feb. 5. Mr. Pitt having presented the Regency Bill to the House,

Mr. *Powys* wished to know, before that or any other bill was read a first time, whether the commission, under the authority of which they sat as a parliament, had expired or not; whether the commissioners were "functi officio," or still possessed their powers, and whether another commission would not be necessary to give the royal assent to any bill which the two Houses might think proper to pass.

The *Attorney General* said, that the commission, under the authority of which the parliament was opened, was still in full force. That commission contained words giving powers so broad, that it was apprehended by some persons that they would authorize the giving the royal assent to any bill which might pass; but other persons, who grounded their opinions on the conduct of lord Hardwicke in 1754, thought differently. In 1754, lord Hardwicke had put the Great Seal to a commission for opening the parliament, and to a subsequent commission, for giving the royal assent to a naturalisation bill; the royal assent to which was given under the joint authority of both commissions.

Mr. *Sheridan* said, that it was usual for all commissions of the kind to contain words giving a power to the commissioners to adjourn and prorogue parliament. It appeared rather extraordinary that those words should be left out of the present commission.

The *Attorney General* said, if the hon. gentleman would consult the rolls of parliament, he would find that, at different times different commissions had been issued for opening parliament. At one time, such commissions furnished powers for giving the royal assent to bills, at others, they imparted powers to prorogue and adjourn, and at others, the powers granted were merely those of opening parliament, and continuing it open. On the present occasion, it was only thought necessary to give powers to open the parliament, and continue it open.

Mr. *Anstruther* admitted that the commission was good, if not liable to any other objection, whether it contained powers general, or powers limited or specific. He

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reminded the House, that the argument had generally run, in the course of the debates, that a commission was to issue, authorizing commissioners to give the royal assent only to the Regency Bill. If no new commission issued, he conceived, under the general words of the commission last issued, that the commissioners were left to exercise their discretion, and give either the royal assent or dissent to the Bill.

The bill was then read a first time. The breviate of its contents being handed to the Chair, the Speaker proceeded to read it.

Mr. *Burke* said, that the Bill appeared to contain so many clauses, and some of them of the most serious importance, that he hoped, anxious as they all were for every possible dispatch of the business, and the restoration of the government, that due time would be allowed for the fair and deliberate discussion of the various clauses. The Bill was a bill to make many kings, which of itself was a matter that deserved very nice atttention; but the clause authorizing his Majesty to resume the exercise of the royal authority, on the suggestion of the Queen's council, proceeded on an idea so unfair, so wild, and absurd, and was at the same time so new to the House, having never been once hinted at in debate, that it demanded a most jealous consideration.

Mr. *Pitt* hoped that gentlemen would not go into any debate upon the bill, before they had an opportunity of reading it. The bill would be printed by the next day, in time for delivery before the House met. When gentlemen had the bill to peruse, they would be better able to discuss its contents than they would be from merely hearing the breviate of the bill read. If the provision for his Majesty's resumption of the royal authority was unfair, wild, and absurd, as the right hon. gentleman had thought proper to pronounce it, before he had read the clause, the whole extent of the proceeding upon that conviction would be for the House to decide, whether they could be ready to go into the Committee upon the bill on Saturday.

Mr. *Sheridan* said, that the bill was ordered to be brought in on the resolutions that had been voted, and therefore, if it contained any new matter the order of the House had been departed from, and the bill ought not to be suffered to proceed.

Mr. *Pitt* said, that if any one of the clauses in the bill should be deemed improper, the House would have it in their power to dispose of it. This he was certain of, that however it might strike gentlemen that the clause was a new one, which provided for his Majesty's resumption of his royal authority, when it should please heaven to restore him to his former health, the principle of that clause was by no means novel. No gentleman could object to the idea, that proper provisions ought to be made to enable his Majesty to resume his authority, when he should recover. It had been a principle much debated, and on which there had been no difference of opinion, nor was it possible that any difference of opinion could subsist on such a subject. If, therefore, the clause should, after examination, be found inadequate to its object, the House would be able to correct its defects.

Mr. *Grey* was convinced that there was not a more ardent desire on one side of the House than on another, to provide effectually that his Majesty might be enabled to resume his royal authority, as soon as he should recover. All must agree, that every necessary provision ought to be taken for that purpose; but he could not but observe, that allowing his Majesty to resume the exercise of the royal authority, upon the advice of the Queen's council, and by virtue of the royal proclamation only, without the interposition and cognizance of parliament, did, upon the face of it, appear to be a most novel and extraordinary provision.

Mr. *Pitt* said, it was by no means the purport of the clause in question to enable his Majesty to resume the exercise of the royal authority, by virtue of issuing his single proclamation, as gentlemen appeared to imagine. He would state the nature of the provision contained in the clause alluded to. The clause provided, that upon its appearing to the Queen, and to the majority of her council, that his Majesty was fully restored to his health, and upon his Majesty's requiring a privy council to be summoned, and signifying such requisition, under his sign manual, to the Lord President of the council, consisting as well of those who had been members, as those who were members, usually summoned, should be convened, at which his Majesty and the queen should be present, when his Majesty's physicians should be examined, and upon its appearing to the majority of the Privy Council so summoned

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that his Majesty was recovered, his Majesty should be authorized to resume the exercise of his royal authority, upon the issuing of his royal proclamation for that purpose, signed not only by his sign manual, but countersigned by the majority of the said privy council, and that parliament should be immediately called together to recognize and ratify the proceeding.

The bill was ordered to be read a second time to-morrow, and to be printed.

Feb. 6. On the order of the day for reading the Regency Bill a second time,

Mr. *Burke* rose. He expressed his extreme surprise that the bill should be proposed to be read a second time, without the House having heard a syllable as to what were the principles of the bill, when opened, and its clauses and provisions. He had often known the principles upon which a bill had been ordered to be brought in, either totally lost sight of in the bill itself, or so violently strained and departed from in the various clauses, that scarcely a single principle upon which the House had resolved to legislate, was to be found in the bill, or to be found entire. It behoved the House, therefore, at all times, to watch great and important bills narrowly, and to see that they were not deceived and deluded; and that while they meant and had resolved to pass a bill for one purpose, they were not induced to pass a bill, containing provisions to answer a very different purpose. There might possibly exist some doubts as to the constitutional and legal competency of the character in which they were then proceeding to act, as a branch of a perfect legislature. In argument and in debate, he and others had much questioned the validity of the commission, under the authority of which parliament had been opened; but, admitting for the present, that there had been exercised a competent power to make the Houses a parliament, and enable them to do the act, upon which they were proceeding, they ought to see what the bill was, before they went on with it; and, therefore, though he meant not to debate the subject at large, he should take the liberty of calling the attention of the House, before they read the bill a second time, to the extent of its provisions, and the extraordinary manner in which the resolutions that the two Houses had come to, were now attempted to be made use of, and carried into effect.

Never, surely, was there a time, when the people of England and that House were so loudly called on to see what they were doing, and to examine, with every possible degree of prudence and foresight, the serious and important consequences, to which what they were doing might lead. His Majesty's incapacity to exercise the royal authority had been established to the conviction of the two Houses, in a manner which left all possibility of doubt out of the question. Indeed, if the examinations of his Majesty's physicians had not taken place, the fact would be too clear to have admitted a dispute, from a great variety of consequences necessary to be detailed, because they were consequences which they not only all saw, but felt. The duration of his Majesty's malady, the turns which it might take, the disguises which it might assume, lay hidden in the secret recesses of the dispositions of Providence. His Majesty was insane, but his malady was not like that of some other persons who were under confinement in houses destined for such purposes, intermittent, various, subject to degrees, lucid intervals, and occasional visitations of reason, but his faculties were totally eclipsed; not a partial eclipse, wanting some digits of completion, but a total and entire eclipse. They were, therefore, to supply the defect in the exercise of the royal authority. The present bill was indefinite in its duration, because that bold promiser, Dr. Willis himself, could not fix a probable time for the chance of his Majesty's being capable of recovering sufficiently well to be fit and able to resume the exercise of his royal functions; and as Dr. Willis, in the sanguine temper, ungoverned zeal, and impetuous rashness of his mind, could not take upon him to decide what would prove the duration of his Majesty's illness, it was not likely that physicians of more moderate minds, of cooler judgments, and of more sober reason, should take upon them to decide the duration of the malady, which had struck at the sovereignty of the empire, and wounded all that was sovereign, either in the political or natural capacity of the King upon the throne.

No period like a moderate time, therefore, had been mentioned, for the duration of his Majesty's illness; the malady of the monarch, consequently, was fixed to no known definite time, and at that moment a bill was brought in, totally to separate

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and parcel out the royal authority, so as to leave only the chance of a government, necessarily so impotent, as to be scarce able to stand at all. All limited power was, from its nature, feeble; and the circumstance of its being only temporary and uncertain, rendered it still more deficient in vigour and in efficacy. The first object of the bill was, to nominate a person to hold this weak, and almost useless government. The next purpose which it avowed its aim to effect was, the raising a power in opposition to that royal authority. Those who gave such powers, were clearly to be the masters of them, and there could no doubt remain, but that the bill was drawn with a design to answer the rash ends of the mad and daring ambition of a right hon. gentleman, whose conduct had but too plainly manifested his view and his intentions. Thus, there was a partition of power, in which the Prince was destined to have no other than an official character, while all the palaces, offices, and dignities, were given to another. This partition was more odious and offensive, than the famous Partition Treaty, relative to the succession, on the death of the last Prince of the House of Austria. It was a partition founded on the most wicked and malicious principle; every thing that was degrading and restrictive, every thing that stamped a suspicion on the character of the Prince, and conveyed a gross affront to his Royal Highness, by holding him out as a person not to be trusted, as a person whom the public ought to suspect, and were likely to be deceived by, was done by what was withholden in the bill; while, on the other hand, all that was graceful, all that was honourable, all that was calculated to hold up a character as great, virtuous, and meritorious, was given where an opposition was set up to oppose and counteract the executive government. The bill affected to give the royal authority, and tended to answer the purposes of a faction, against that authority. Its real object was, to defeat the preferable claim, of the Prince of Wales to the regency, in the very moment that the claim, in practice and effect, was found to be irresistible; and to set up what had been termed the equal right of a subject, as paramount to the Prince's right.

Mr. Burke declaimed upon the purport of the bill, in the view of which he considered it, and said, that the doctrine of divine right, which had been exploded in the House of the Stuarts, was now revived in favour of another House. The present minister, he understood, had been called "an heaven-born minister," in another place; they might fairly suppose, therefore, that he had a divine right to take to himself a larger portion of power and of patronage, than he chose to leave to the Prince on the Throne; and when he said the Prince on the Throne, he begged to be understood as alluding to the Prince of Wales, sitting on the Throne in his delegated character, on the behalf, in the name, and as the representative of his father. But, if the minister was already declared by one of his fanatics, to be a heaven-born minister, he did not wonder at his considering himself as acting under the influence of a divine right, and that he should go any lengths to secure the power at which he aimed. By the present bill, all the powers of distributing honours, and every charity, were denied the Regent. There were employed by the household, painters, architects, historiographers, and many other artists and artificers of different degrees, ranks, orders, and descriptions, to reward whom, the Prince was deprived of every possible opportunity. He was left without a table, without any provision, which resembled the shadow of royalty, farther than what he had enjoyed as Prince of Wales from his Majesty's personal bounty. Mr. Burke added, that although he trusted that he honoured her Majesty as much as any other subject, he did not think that she ought to have that patronage. She might be nominated to hold it, but he was confident that the exercise of it would devolve into other hands. The bill was calculated to eclipse the royal dignity, and to reduce the Regent to an official character, which was a scandal to the nation, and the more so, as coming from those who were thought men of honour; and, therefore, he should consider it as a wicked, base, and unjust action, not more degrading to the Prince of Wales, than disgraceful to the perpetrators. In consequence of the bill, responsibility was given to the Prince of Wales, who was saddled by having all the onerous duties of government imposed on him, without having any grateful powers to counterbalance the burthen; while the dignity, splendor, and real distribution of emoluments, were given to the minister. The bill meant not only to degrade the Prince of Wales, but the whole House of Brunswick, who were to be outlawed, excom-

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municated, and attainted, as having forfeited all claim to the confidence of the country! Gentlemen might smile as they pleased at this doctrine, but the conduct of the other side of the House was reprehensible, degrading the royal family, sowing the seeds of future distractions and disunion in that family, and verging to treasons, for which the justice of their country would he trust, one day overtake them, and bring them to trial. Mr. Burke was here interrupted by a general cry from the treasury side of the House, of "Order, order!"

Mr. *Pitt* observed, that notwithstanding the right hon. gentleman chose to indulge himself with a direct attack upon him, in the style of invective in which he was accustomed to deliver himself in that House, he seldom thought it worth his while to call him to order, or indeed to make him any answer, because his speeches, from their extraordinary style, and the peculiarly violent tone of warmth and of passion with which they were generally delivered, seldom failed to give that impression, which those to whom they were directed wished them to give; but, when the acts of the House were called in question, and a bill avowedly founded on principles which the House had sanctioned by voting them, after much discussion and debate, in the form of distinct resolutions, was represented as amounting to the outlawry, excommunication, and attainder of the whole House of Brunswick; and the House was told distinctly and unequivocally, that they were proceeding to act treasons, for which at a future day it would be overtaken by the justice of their country, and brought to trial, he did hope that the House would interpose its authority.

Mr. *Burke* said, that whenever he used any words that were disorderly, he presumed those who thought proper to call him to order, would state what the disorderly words were, as well to convince the House that he had been disorderly, as to enable him to explain his meaning in a regular manner. With regard to the charge of passion, which the right hon. gentleman had imputed to him, he confessed that he had expressed himself with warmth, originating from a deep consideration of the great importance of the subject, and not from any censurable imbecility of temper. So far from it, it would have been censurable in him, or in any man possessed of common feeling, to have refrained from that indication of warmth which he had betrayed, when speaking of a bill, from the provisions of which, the whole House of Brunswick were expressly excluded. When he saw that, under the pretence of providing a government, there was a provision made for tumult, disorder, and debility in that government, he felt as a man, conscious of the fatal effects of such a measure, must feel, and spoke warmly and even passionately upon the subject, but that warmth and that passion, arose from a due sense of the dreadful tendency of such a provision. And when ought he to speak of it, but when they were in the act of completing that very game of ambition, of which he had complained? In considering the manner in which that game of ambition was proposed to be played, and the measures that were resorted to in order to render it successful, was he not to look to the views, intentions, and designs of those whose object it was to win the game? If, by the sort of speeches he usually made, the style of his argument, and the warmth of his delivery, he served the right hon. gentleman, the right hon. gentleman ought to be much obliged to him. Sure he was, that he did not mean to further the right hon. gentleman's objects, and certain he likewise was, that the purposes of ambitious men were best served, by concealing all inquiry into their motives and intentions, and resorting to general encomiums on their conduct. In examining a bill that tended to cause a total revolution of the splendor of the Crown, to separate it from the executive government, and to give it to other and unknown persons, he had a right to look to the private views of those who brought in such a bill. If he found that such bill, under pretence of a compliment to the King, was calculated to degrade the royal family, and to serve the purposes of ambitious men, he had an undoubted right to examine into, and question the purity of the designs and intentions of its authors. Upon what principle, therefore, of propriety or reason, or common sense, had gentlemen deemed an argument, founded in such a purpose as he had explained, a fit subject for laughter? Such laughter was worse than madness itself, and more horrible than the senseless ravings of the unfortunate wretches who were chained to their cells. Mr. Burke declared that he had not rashly nor weakly suffered his reasoning on such a subject to

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hurry him into warmth, and contended, that nothing he had said was deserving of laughter or of ridicule. When the House had formed themselves into a committee, he should, he hoped, show that he was able to speak with temper, and prove, to the conviction of prejudice itself, that the arguments he had, before he was interrupted, only loosely and generally thrown out, were founded in truth and seriousness, and well worthy the solemn attention of every man in the country. At present, he would only show the effects of the bill collaterally.

Mr. Burke then proceeded to touch on some of the provisions in the bill, which were, he remarked, so far new to the House, that they had neither been expressed in any of the resolutions, nor opened or stated in debate. One of the first points of this sort that he alluded to was, the privy purse of his Majesty, which, from 36,000*l.* a year, had been increased, first to 48,000*l.*, and had at length swelled up to 60,000*l.* a year. That, of which they had hitherto heard nothing, was by the bill to be withheld from the Prince of Wales, who was to have no privy purse; so that by the bill they would separate from him the table, the honour, and the hospitality belonging to royalty, and were going, for what they knew to the contrary, to create a fund for bribing members of parliament, by entrusting the queen with the care and application of such an enormous sum of money. They gave such a large sum not for what the King would have done, were he well and in health, but for her Majesty's guessing what the King would have wished to have done, were he well; while the Prince of Wales, as Regent, was neither suffered to act liberally for himself, nor to think what his royal father would have had transacted. They had heard of the Queen's girdle, the Queen's shoes, and the Queen's mantle, and other parts of her personal attire, as heads of expense under the civil list, but they had never before heard of the Queen's having an enormous sum allowed her for guessing what the King would have done, had he not been insane. The Queen might be regarded as the King's trustee for accumulation, or his trustee for distributing money to no person knew whom. The sum might be given away in pensions to support the faction, and in bribes to the members of that House. The privy purse in his Majesty's hands had been responsibly placed; according to the bill, it was to be entrusted where there was no responsibility whatever.

Mr. Burke next adverted to that part of the bill which comprehended the provisions for the care of the King's person, from which the Prince of Wales, he observed, was expressly excluded. Perhaps, he said, that exclusion was proper; but why were the duke of York, and the dukes of Cumberland, of Gloucester, and the rest of the royal family, excluded? Was he to be laughed at, for saying that such a general exclusion upon the face of it appeared as if the whole House of Brunswick were outlawed, excommunicated, and attainted of high treason? Had the rest of the family no interest in the preservation of the King's person? Had they expressed that they had no wish for his recovery? His Majesty's person, and his Majesty's money, what security was there for either? The language of the bill clearly was, "Oh! keep the Prince from both, and let them lie at the mercy and the will of the kites and the crows of the air!" There seemed to be no other disqualification for coming near the royal person, and having any share in the care and guardianship of the personal property of the King, but the having sprung from his royal loins. How did they know but so large a sum as the amount of the King's privy purse, which his Majesty, had he been sane, might have consented to reduce to its former amount, in alleviation of his over-burthened civil list, was intended to be given to jobbers and monied men, to bribe them to adhere to the faction set up in opposition, and as a place of arms against the executive Government? Was he, then, to be laughed at, for saying, that by the bill, the House of Brunswick were excluded, proscribed, and attainted?

The next part of the Bill which struck him as most extraordinary and highly objectionable, was that clause which gave the Queen's council the power to pronounce his Majesty recovered, and restore him to his government. An exclamation of Hear, hear! coming from the other side of the House, Mr Burke said, gentlemen act wisely in endeavouring to prevent what would follow from being heard, but he would repeat the expression. The powers given to the Queen's council to pronounce his Majesty recovered, and restore him to the exercise of his royal authority, were most extraordinary. The clause did not even specify of

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what number of the Queen's council those gifted with so extraordinary a power were to consist. That was to be provided for by the filling up of a blank. Parliament had been deemed competent, to dethrone a sovereign; but, when they came to the return of a king, to the exercise of his royal functions, the whole power was given to a council, to consist of no person knew whom. Mr. Burke declared, he would, for the present, touch but on some few of the heads of this monster, and that as shortly as possible. They had declared the King incapable of exercising his royal authority, after a full and solemn examination of his Majesty's physicians, but, whether he was to be deemed capable of resuming the exercise of the royal authority or not, was not to depend on any examination had by them. Before his Majesty had been declared incapable by parliament, and before they had acted on that declaration of incapacity, his Majesty's physicians had undergone four separate, solemn, and scrupulous examinations; one before the privy council, two before that House, and one upon oath before the other House. Thus parliament had exercised all its own powers of investigation, and superadded those of another of great authority. Why was there not to be at least as scrupulous an examination of his Majesty's health, when a motion of so much importance as his resuming his authority was to be decided? Out of personal delicacy and respect, the House had proceeded carefully to examine into and ascertain the fact of his Majesty's incapacity, before they grounded any proceeding upon it; and was it less important, less necessary, when the question was, whether the country was to be governed by a person in his senses or not, that the fact should be at least as correctly ascertained with respect to his Majesty's recovery? As the bill stood, until her Majesty should think fit to assert that the King was well, the people were not to know it. If the council were ministerial and if his Majesty were well enough to sit in a chair at the head of that council, the Bill provided that he should be declared capable. This was putting the whole power of changing the government into the hands of Dr. Willis and his keepers. A person who had been insane, might, he contended, be so subdued by coercion and severity, as to be capable of being prevailed on to act the farce appointed him, of appearing for a short period to have recovered his intellects. He maintained the difficulty of getting a man to swear, that a person who had lost his understanding, was restored and in his senses, compared with the ease of procuring a man, from the conduct and conversation of another, to swear that he was out of his senses. He urged the utter impossibility of bringing it to proof, whether a person who had been insane, was perfectly recovered or not. What was likely to be the natural conduct of a person so happily restored? Undoubtedly, his first object would be to revive those domestic feelings, dearest to the human heart. Were the King to recover, and had it in his power, would he not, on the restoration of his intellects, first call his dearest son the Prince of Wales, into his presence? Would he not next ask for his next son the duke of York, and the rest of the royal progeny? Did the Bill provide for this? No. The whole was to be done in a blind manner, in the dark, and in a way most liable to suspicion. The whole was a scheme, under the pretence of pronouncing his Majesty recovered, to bring back an insane king. Those who conceived, that the proof of a man having recovered his understanding, was to depend on affidavits and entries, forgot that a sound king naturally courted public inspection, and was desirous of being examined, and that his recovery should be established to the conviction of his subjects.

Mr. Burke reiterated his objections to the Bill, and laid great stress on the circumstance of the House of Brunswick being excluded from any share of the guardianship of the King's person. He declared he did not suspect the Queen of being capable of acting improperly; but, as a public man, it was his duty to suspect situations and temptations, that might pervert the purest mind, and draw it aside from the straight path of rectitude, and thus render her Majesty the tool of ambitious men. He reprobated the Bill on account of its malevolent aspect, in excluding the House of Brunswick, and for its malicious attempt to guard against evils from a quarter, whence none were expected to come, and laying a quarter open, whence they were most to be dreaded. The House, he said, had proceeded step after step, and been led on to do that, which, if proposed altogether, would, he was persuaded, have been rejected by every man of honour. Like Macbeth, who, after having mur-

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dered Duncan and Banquo, exclaimed,

———I am in blood
Stept in so far, that, should I wade no more,
Returning were as tedious as go o'er——

they found themselves inclined to proceed, from not daring to trace back their steps. Mr. Burke added, that he had thought it necessary to throw out this preliminary series of loose remarks, not doubting but if they were cooly and seriously attended to, they would call forth those of men of greater abilities than himself, and that like the man who first raised a spark, he should see that spark kindle into a flame hereafter. He added some farther general remarks on the Bill, and declared, that he had done what he intended, namely, laid open briefly the provisions of the Bill, that he should be authorized hereafter to compare those provisions with the declared principles on which the Bill had been ordered to be brought in, and to compare those principles back again with the provisions, and he did not doubt, but sooner or later, gentlemen would feel in their own breast as he felt. Before he sat down, Mr. Burke took notice of a charge, which, he said, had been brought against him, of having attacked a noble duke, for declaring in the other House, that the minister was a heaven-born minister. He had heard through the public prints, that such an expression had been made use of in the other House of Parliament, but he had not been present at the time or in the place himself. A minister who was heaven-born, certainly might plead a divine right, and to a divine right he should always bow; they had, before this, heard of heaven-born monarchs; and a heaven-born minister, he was persuaded, was soon likely to become a heaven-born monarch.

Mr. *Gamon* said, that his noble relation, the duke of Chandos, in the course of debate, had adverted to an expression used by lord Chatham, who, once speaking of lord Clive, had termed him a heaven-born general, and had remarked that when the flourishing state, to which the present Chancellor of the Exchequer had restored the revenue of the country were considered, he thought the term of a heaven-born minister was as fairly applicable to him, as that of a heaven-born general had been to lord Clive.

The Bill was read a second time, and ordered to be committed to-morrow.

Feb. 7. The House resolved itself into a Committee on the Regency Bill. When the clause was read, by which it is enjoined, that the Regent shall bind himself by oath, to take care of the personal safety of the King to the utmost of his power and ability, and to govern according to the stipulations and restrictions recited in the bill,

Mr. *Burke* said, that when he compared this clause with another in the same bill, he felt a persuasion that the framers of it intended it not only as a mockery of the Prince of Wales, but as an insult to common sense; for he found that the Prince, who was not to be entrusted with the custody of the royal person, was to swear that he would protect it; whilst those who were in fact to have the care of his Majesty, were not to be called upon to give any pledge whatever for the faithful discharge of the trust committed to them. He admitted that it was unlikely the person of the King should be in any danger from the Queen; but it was just as unlikely that there should be any cause for apprehension of danger to him from his son; and therefore both or neither should be bound to give the security of an oath for the protection of the royal person. As the Bill then stood, common sense must revolt at it; for the person who was actually to have the care of his Majesty, was left free from all engagements relative to the safety of the King; and the Regent, who was to have no power over his Majesty's person, was to swear that he would take care of him! Nay, the very persons who were to be appointed counsellors to the Queen, were not to enter into any engagement of this nature; for the oath which they were to take, was totally silent on this head, as appeared from the form of it, which he read as follows: "I A. B. do solemnly promise and swear, that I will truly and faithfully counsel and advise the Queen's most excellent Majesty, according to the best of my judgment, in all matters touching the care of his Majesty's royal person, and the disposing, ordering and managing all things relating thereto. So help me God."

In this oath, Mr. Burke observed, there was not one word about the personal safety of the royal person; and though these counsellors were to be appointed to advise her Majesty touching the care of the King, they were not bound by the oath to consult the safety of his person in the advice that they should give. Thus was the

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Prince of Wales to be compelled to enter into engagements, in themselves nugatory and absurd, because the person, whom by these engagements he was bound to protect, was taken out of his power; and the Queen and her counsellors, who could alone protect that royal person, because they alone were to have the custody and care of him, were left free from those very engagements which were to be forced upon the Prince. Thus was an oath imposed where it could be of no use, and omitted where alone it was necessary. Sense and decency would therefore require, either that the Prince should not be bound to take this oath, or that it should be taken also by the Queen and her counsellors.

He said that the objection which he had been hitherto stating to the Committee, was not the only one that occurred to him. He thought that the oath ought not to stand at the head of the Bill, because the things to which a person was called upon to swear, ought to precede the oath, that he might know to what he was going to swear, otherwise the Prince might be put into as awkward a predicament as the persons who were bound to swear to an &c. &c. Besides, there was something very new in the form of this oath, which was to be taken by the Prince: he was to swear (exclusively of any thing that related to the safety of the King's person) that he would maintain all the provisions of the Bill then before the Committee. What was the reason for confining the oath to that particular Bill? Why did it differ from the coronation oath, which had a general view? By that the Prince was bound to govern according to the laws of the land. When the Bill actually under discussion, should have passed into an act, then it would become one of the laws of the land, and would of course be included in that general oath. But something insidious was meant by this proceeding, or it would not have been marked by such a departure from the established rules and customs.

Colonel *Phipps* said, that it was immaterial in what part of the Bill the oath stood, as it was not to be taken by the Prince, until he should have seen all the provisions and clauses of the Bill. Should his Royal Highness feel a repugnance to swear to any of them, the oath could not be forced upon him, and he would be at liberty to reject it, and with it the Regency, or to take both together, as they were not to be separated.

Mr. *Pitt* desired that a clause in the Regency Act, passed in the present reign might be read. From which it appeared, that such an oath as was now proposed, was imposed upon the person who would have acted under it as regent. He thought it would have been wrong in him to depart from the precedent of that act; nor did he see that under all circumstances, there was any thing in the nature of the trust given to the Queen, that could render it absurd to call upon the Prince to swear that he would consult the safety of the royal person.

The clause was agreed to.

On the following clause being read: viz. "And be it enacted by the authority aforesaid, that nothing in this Act contained shall extend, or be construed to extend, to empower the said Regent, in the name and on the behalf of his Majesty, to give the royal assent to any bill or bills in parliament, for repealing, changing, or in any respect varying the order and course of succession to the Crown of this realm, as the same stands now established in the illustrious house of Hanover, by an Act, passed in the 12th year of the reign of king William 3, intituled, 'An Act for the further limitation of the Crown, and better securing the rights and liberties of the subject;' or to any act for repealing or altering the Act made in the 13th year of the reign of king Charles 2, intituled 'An Act for the uniformity of public prayers and administration of sacraments, and other rites and ceremonies, and for establishing the form of making, ordaining, and consecrating bishops, priests, and deacons, in the Church of England;' or the Act of the 5th year of the reign of queen Anne, made in Scotland, intituled, 'An Act for securing the Protestant religion, and Presbyterian Church government.'"

Lord *North* rose, not to oppose this clause, which had been inserted in all the regency bills, but to observe that the clause was uniformly preserved, to mark the sanctity of the statutes alluded to, and to show that they could not be repealed, without a preliminary consideration of the subject in parliament, which must pass on a special bill to repeal this part of the bill then under consideration, before it could repeal the acts which it recognised. He commended this additional difficulty thrown in the way of an alteration of the ritual of the Church of England.

Mr. *Beaufoy* desired to understand fairly, what was the object and extent of

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the clause under consideration. If, as the noble lord said, it was not binding upon the Regent, so as to prevent him from at any time giving his assent to a bill that might hereafter be brought in for the purpose of taking off the disqualifications imposed at present on Protestant Dissenters, and was merely meant as a fresh proof of the sanctity of the statutes in support of the uniformity of the church of England Ritual, he should have no objection; but if, on the other hand, it was understood to be binding on the Regent, and that, under the idea of the sanctity of the law as it stood, the Regent was precluded from giving his assent to any bill to relieve Protestant Dissenters from being, in consequence of their religious opinions, subject to disqualifications for civil offices, he should have many and strong arguments to urge against it, because he thought it extremely improper to do that collaterally, which, if done at all, ought to be done directly and distinctly. Mr. Beaufoy avowed, that he spoke on behalf of the Protestant Dissenters, who had applied to parliament for relief from the Test Act, two years ago, and who were so thoroughly convinced of the justice of their claim on the candour of parliament, that they meant again to appeal to their deliberate judgment.

The *Attorney General* said, that the fears of his hon. friend were groundless, as the clause did not go to the extent described: it only threw this difficulty in the way of a repeal of the Test Act: it obliged parliament, before it proceeded to the repeal of that Act, to re-consider the subject thoroughly, and to have the present Bill before its eyes. It could have no other meaning than to make it imperative on parliament, to take all the statutes that referred to the subject into their consideration, whenever parliament thought proper to alter the Act of Uniformity; but the Act of Uniformity of the Church of England was the only Act which it regarded.

Mr. *Pitt* corroborated the remarks of the Attorney general, and explained the distinct view of the Uniformity Act, which related to the Ritual of the Church of England, and the ceremony of prayer and sacrament of that church merely. No point contained in the clause in question, would, either directly or collaterally, preclude the Protestant Dissenters from appealing to parliament again whenever they thought proper. He said, that the clause in question as well as several others in the Bill, were inserted as mere matter of form; not as allusive to any peculiar circumstance of the present times, but because they stood in other Regency Bills, and were provisions, which our ancestors thought it necessary to make, by way perhaps of showing a degree of superfluous caution on a subject, on which it was their duty to provide every guard and security.

The clause was then agreed to. When the Committee came to the following clause:

"Provided also, and be it enacted by the authority aforesaid, that if his said royal highness George Agustus Frederick, Prince of Wales, shall not continue to be resident in Great Britain, or shall, at any time, marry a papist, then, and in every such case, all the powers and authorities vested in his said Royal Highness, by virtue of this Act, shall cease and determine."

Mr. *Rolle* trusted that the House would indulge him with a patient hearing, whilst he entered shortly upon the present subject, previously to which he must declare, in justice to the Chancellor of the Exchequer, that with respect to what he had to offer, he had not had any communication with him whatever. In what he had to propose, he meant nothing personal or disrespectful, nothing injurious or hurtful to the feelings of any individual. He spoke from the regard he had to the principles of the constitution, which were the bulwarks of our freedom, and out of veneration for the House of Brunswick, and a wish to secure the Protestant succession in that House, because that succession would secure our liberties. For these reasons, he thought it his duty to propose an amendment to the clause then under consideration, and he imagined no friend to the Revolution, the Protestant succession, and the House of Brunswick, would disagree with him in wishing that the clause in question should be so worded, as to guard against the possibility of danger to the important objects to which he had alluded. Could he have brought himself to believe, that as the clause stood at present, it was sufficiently strong, he would not have proposed an amendment; or, if any person would step forward and confirm the declaration solemnly made by a right hon. gentleman not then present (Mr. Fox), in that House, two years ago,*

* See Vol. 26, p. 1070.

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he should be satisfied. That declaration had satisfied him at the time, nor did he mean to impeach its credibility, but as doubts and scruples had, nevertheless, been still entertained without doors, he wished them to be effectually silenced, and that the question might be set at rest for ever. He might, he was aware, be a marked man hereafter for his conduct on this occasion; but that was not a consideration with him, when weighed against a sense of his duty. He then moved, to insert after the words "or shall at any time marry a papist," these words, "or shall at any time be proved to be married, in fact or in law, to a papist."

Lord *Belgrave* was sorry to differ from his hon. friend, whose great weight and respectability justly entitled him to every degree of consideration in that House; but differing as he did, on this occasion, with his hon friend, he thought it proper to state the grounds of that difference. He understood that, at a former time, before he had the honour of a seat in that House, when it was proposed that an arrangement of the affairs of his Royal Highness should be made, his hon. friend had risen and declared, that he could not act consistently with his duty to his constituents and his country, if, before he voted for the arrangement proposed, he did not desire to know whether there was any truth in a rumour of a very extraordinary kind; and, with this view, his hon. friend, he understood, had put the question, whether there was any foundation for the report of an indissoluble union having taken place with a very amiable and respectable character, whose religious opinions differed from the religious opinions of the established church of this country. A right hon. gentleman had, on the occasion referred to, risen immediately, and said in the most decisive manner, that there was no truth whatever in the reports in question; that they were libellous, and neither had nor could have any foundation. Considering the weight due to the assertion of any individual member of that House, and particularly to the assertion of a gentleman of the character and authority which belonged to the right hon. gentleman in question, he could not think that there existed any occasion to discuss the validity of such a rumour over again, and therefore he deprecated any such discussion.

Mr. *Pitt* said, he must differ from his hon. friend, as to the necessity of the amendment. That clause had been one of those to which he had alluded, when speaking of the uniformity clause. He had said, that several of the clauses of the Bill were mere clauses of form, and put in as a matter of course, without any especial reference to the subject of the Bill. The fact was, they found them in former Regency Bills, and conceived that they ought not to show a less cautious regard to the safety of the constitution, than their predecessors had deemed necessary. They felt, besides, that leaving those clauses out of the present Bill, was more likely to be a matter of remark, than letting them stand. With regard to what his noble friend had alluded to, he wished not to advert to any thing which had formerly passed in that House; because that could have nothing to do with the present Bill.

Sir *William Dolben* was satisfied that his hon. friend had thought the amendment necessary, or he would not have moved it; he believed his hon. friend had conceived the words which he proposed to insert necessary, merely to set at rest the doubts which had been entertained, not by the vulgar and the mean, but by great lawyers and learned men. Such doubts ought to be done away, but he did not wish the amendment should be accepted, if any learned gentleman would rise and say, that the clause, as it stood, was sufficiently strong to secure the church and state from any difficulties and dangers which might be brought on it, in consequence of the existence of such a circumstance.

The *Attorney General* said, it was difficult to answer the question of the hon. baronet directly and satisfactorily; because, let acts of parliament be drawn up in ever so strong a manner, and with all the precautions that human foresight could devise, it was impossible to say that means might not be found to evade them. But, the security given by the present bill was the same as had been given in fomer times, and it had been deemed sufficient by our ancestors. The hon. gentleman had talked of rumours; but, though rumours might cause inquiry, rumours could not be made a ground for that House to legislate upon. With regard to the particular rumour in question, he knew of nothing that could warrant him to believe it to have any foundation. Sure he was, there was nothing before that House, which could make it necessary

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for them to alter the clause then under consideration

Mr. *Welbore Ellis* did not understand what the hon. gentleman meant by a marriage in fact or in law; but the hon. gentleman seemed to have forgot that there existed an act of parliament, which expressly declared, that his Royal Highness could not contract a marriage with any person, without his Majesty's consent, signified under his sign manual. That Act was a full and sufficient answer to all that had been, or could be said on the subject. He desired that the 12th of George 3 might be read.

Mr. Hatsell accordingly read that clause of the Royal Marriage Act which provides, that previous to the marriage of the descendants of George 2 taking place lawfully, his Majesty's consent to such marriage must be first obtained, and signified under his sign manual; which consent must have the sanction of the Great Seal; and that all marriages contracted without the royal consent being so formally signified, were declared to be null and void, and of no effect whatever.

Mr. *Rolle* said, he had heard it to be the opinion of some of the first lawyers of this country, that nothing contained in the act just referred to, altered or affected the clause in the Act of William and Mary, which enacted, that any heir to the Crown, who married a papist, forfeited his right to the Crown. He did not intend to divide the Committee.

Lord *North* said, that by perusing the Act which had been just read, it would appear that no marriage could be contracted of the kind, respecting which they appeared to have such wonderful apprehensions, and therefore no danger could arise to church and state in the manner dreaded. It had of late been the conduct of the two Houses to assume the power of making laws; and therefore as the proceeding to legislate by two branches of the legislature might be questioned, perhaps some gentlemen might be disposed to challenge the validity of an act of parliament passed legally and constitutionally by the three branches of the legislature; and thence, perhaps, the question of the hon. gentleman who spoke last. In answer to all such, he would only say, that if it were a question, whether an act of parliament regularly passed under all the due forms with the joint concurrence of the King, Lords, and Commons had the force of law? That question could not exist a single moment without supposing, that all the bonds of the political society, which made their constitution, were dissolved, and that they were reduced to a state of nature. The Act was in full force, and so it would remain, unless regularly repealed by some subsequent statute. With regard to the hon. gentleman's motives for introducing a discussion, which could have no good effect, but only tended to make the acts of the legislature doubtful, and to raise idle and mischievous alarms throughout the country, he would not take upon him to pronounce what those motives were; they might be good, they might be bad, certain he was, be the motives either one or the other, the agitation of questions of the sort which the hon. gentleman had started, could answer no wholesome purpose whatsoever.

Mr. *Pitt* said, that the manner in which the noble lord had chosen to deliver himself was so extraordinary, that he could not help expressing his surprise, that when the question had taken the turn, that every friend to union and quiet, wished it should take, the noble lord should have thought it necessary to endeavour to create that division of sentiment, which it seemed to be the wish of the rest of the Committee to avoid. The noble lord had expressed himself in so taunting a manner to his hon. friend, that he seemed determined, if it were possible, to risk the danger of effecting an appearance of disunion. The noble lord, with a degree of contemptuous and insulting raillery had said, that his hon. friend's motives might be good. The noble lord, therefore, seemed to doubt them. The noble lord had as little right to doubt the motives of his hon. friend, as he had to doubt the motives of any one man in that House. The noble lord had thought proper to treat the subject with a degree of levity and ridicule, by no means suitable to its gravity and importance; and so hostile was the noble lord's temper, that he could not agree with them in attempting to avoid a disagreeable discussion, which, for a variety of reasons, had better not have been gone into. But, luckily, the hostility of the noble lord's temper was so harmless, that it could not rouse them to a vigorous defence; nothing could induce them to depart from the line they had taken, and to which they were determined to adhere. He would not, he declared, go into the discussion any more

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than he had done before. It was sufficient for him to say, he took the whole of the case, together with the various laws which had passed, and all the circumstances of the declaration formerly made in that House, and putting these into the scale, they were enough to make him be of opinion, that there was no sufficient reason for the Committee to think the clause, put into former regency bills by their ancestors, was not a sufficient security against every danger that possibly could arise.

Lord *North* said, that after having been so severely reprimanded, he apprehended the Committee would allow him to defend himself for a very few minutes. He appealed to those who had sat with him for many years in parliament, whether he had ever been considered as an uncandid man, or a man of a very quarrelsome disposition? He had not disputed the hon. gentleman's motives, he had only said, that the agitation of the question might do mischief, and could not be attended with any good consequences. He thought so still. The right hon. gentleman had said, that he wanted to provoke the House to a division. He wished for no such thing. If there was a division, he, probably, should divide with the right hon. gentleman, and he seldom had that honour; and, as the right hon. gentleman generally acted upon the ancient maxim, *divide et impera*, he should not only divide with him, but commend the object he divided for. If, therefore, he had been anxious to divide with the right hon. gentleman, on that account a little anxiety might surely have been pardoned. When the hon. gentleman who moved the amendment, had said, he would not divide the Committee, he had observed that he was glad of it. Where was the harm of that? With regard to going into subjects foreign to the purpose, he could not admit the charge; least of all could he admit, that it ought to come from a quarter, where the discussion of a dangerous doctrine, totally unnecessary to be agitated, had been insisted upon so peremptorily, that, although the doctrine had never been questioned, gentlemen were not suffered to sleep before they decided it. The doctrine of the hon. gentleman over the way, who questioned the validity of an act of parliament regularly passed, under all its forms, by the three branches of the legislature, he must take leave to say, was of ten thousand times the importance of the doctrine of the Prince's right. Was he to be reprimanded, because he thought the discussion dangerous? If a right hon. gentleman, on a smaller occasion, wished to settle the minds of men, might not he, on so great an occasion, wish to settle their minds also? It could not fairly be inferred, from any part of what he had said, that he was a man much disposed to quarrel. He owned he had spoken with a little warmth, but much less than the right hon. gentleman often used, and with more candour than the right hon. gentleman ever exhibited.

Mr. *Rolle* said, that in bringing forward the discussion, he only meant to guard the Protestant religion in this country from danger; that he was conscious of having done his duty, and so far was he, when he was satisfied that he was right, from being afraid of maintaining points that he had once started, that he would persist, if he stood single, and all the House should vote against him. On the present occasion, it mattered not to him who liked, or who disapproved of what he did; he would not withdraw his motion, though he wished not to divide the Committee.

Sir *William Dolben* said, that if the words of the clause as they then stood in the bill, were adequate to the purpose, he would have them stand: if not, he should approve of an amendment; seeing that doubts had arisen in the minds of grave and learned men, whether a descendant of George 2, if he married a Papist, would not, agreeably to the Act of Settlement, forfeit his right to the Crown?

Mr. *Martin* said, that although he conceived it unjust to incapacitate any man from holding a civil office for his religion, be it what it might, yet there was something so repugnant to the principles of the British constitution, in the principles of the Roman Catholic religion, that the most alarming consequences were to be dreaded frem an heir apparent to the British Crown marrying a Papist, and therefore if a division had taken place, he would have voted for the amendment.

Mr. *Sheridan* said, that there was, undoubtedly, a disposition on the side of the House on which he sat, to treat the matter without much discussion, but he could not help thinking the right hon. gentleman had endeavoured to raise a warm discussion, by imputing intentions which did not exist. The noble lord in the blue ribband had treated the subject with that

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levity, which better became it, than the pompous solemnity it had been dressed up with, by those who had said they had their doubts, but that they wished them to be hushed up. If any gentleman seriously thought that the matter, so darkly hinted at, had taken place, it was his duty to state the ground why he thought so, to propose an inquiry, and to probe the business to the bottom. With regard to the hon. gentleman's motives continued Mr. Sheridan, "I plainly say, I doubt his motives; and I say so, because I can judge only from his actions, of the purity of his motives. I cannot pronounce them bad; because I cannot possibly know what they are; but let us compare them with his conduct. The hon. gentleman says, he has his doubts; he does not state why; he has had acts of parliament consulted, tending darkly to sustain those doubts. What motive can he have, but to give suspicion wing; and disseminate alarm? Who has said any thing in favour of those doubts? It is true a pamphlet has been written by an ingenious gentleman (Mr. Horne Tooke), the madness and folly of which are apparent in every page, and the whole drift of which betrays the author to be a bad citizen, because, when he roundly asserts that he seriously believes the fact he refers to, to have taken place, and then resorts to no means of elucidating it, he insinuates what he ought not to have insinuated, without proceeding to establish it by something, at least, that bore the resemblance of truth." The hon. gentleman had acted exactly in the same manner; and therefore the Committee were entitled to doubt his motives. The right hon. gentleman, it was plain, did not believe the fact in question, or he would have been ready enough to adopt the amendment. The right hon. gentleman had surely dealt enough in restrictions, providing against unnecessary apprehensions, not to be suspected of being ready to propose farther restrictions, if he could urge a colourable pretence for so doing. If the right hon. gentleman really did entertain a doubt, or a scruple upon the fact, it ought not to be huddled up, and left unexplained.

Mr. *Courtenay* said, that he owed it as an act of justice to Mr. Rolle, to contend that the purity of his motives, and the honest ardency of his zeal, were proved beyond a possibility of doubt, by the weakness, futility, and absurdity of his arguments; for it was scarcely possible to conceive, that the hon. gentleman would introduce a motion of such a tendency into the House, unless he had really believed it was absolutely necessary to preserve the Protestant religion, and to rescue us from the impending danger of popery. The hon. gentleman, trusting to his internal feelings, and the approbation of his conscience alone, had disdained to borrow the least assistance from logic, or any species of reasoning in support of his motion, and had exposed himself in all the artless and naked simplicity of his understanding: and Hudibras had justly observed, that he who

> To prove his zeal knocks out his brains,
> The Devil's in him if he feigns.

This was the second time the hon. gentleman had introduced this subject into the House, as one peculiarly adapted to the tenderness, delicacy, and sympathetic feelings, which always distinguished him. His apprehensions, though groundless, evinced his patriotic affections, and his regard to the true interest of his country; for if the hon. gentleman was so much alarmed without any real cause or foundation, what a generous ardour, what a noble impetuosity and affecting eloquence would he display, to rouse the passions and touch the feelings of every heart, if that bulwark of our liberties, the Protestant religion, was menaced with inevitable ruin, and it was decreed that popery was to be once more triumphant! But, Mr. Courtenay said, he hoped the nation had grown wise by experience, and, as they had suffered so severely by placing implicit confidence in impostors, that they would not suffer themselves to be so easily duped at this moment, by malicious insinuations, mysterious suggestions, or idle rumours. There were always impostors watching to take advantage of the credulity of the people, and to derive fame or consequence from their prejudices. Titus Oates was once the idol of his day, and worshipped by the multitude; but his name was now justly consigned to contempt and infamy, and was likely to remain so, till it was degraded from the eminent rank it now deservedly held, by the superior merit of another impostor of these times, who excelled that celebrated doctor in every art which had characterized his political life. One gentleman seemed rather disposed to support the amendment. He, too, trembled for the Protestant religion. His apprehensions reminded him of Jack's terrors, in the tale of the tub, who com-

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plained to his brother Martin, that the church and state were in danger, for the pope, as he was credibly informed, had been seen in a brandy shop in Wapping, and the whole city had been thrown into the utmost consternation. Mr. Courtenay concluded by saying, that he did not suspect or insinuate, that Mr. Pitt had either suggested or approved of his friend's sentiments. He only very handsomely vouched for the purity of his motives; the absurdity of his arguments, and his mischievous, though impotent, efforts, he disclaimed. By this ingenious logic, the clearness of the spring was proved by the foulness of the stream; and the impropriety, indecorum, and indelicacy of the hon. gentleman's allusion, were amply compensated by the purity of his motives, and the chastity of his sentiments. The right hon. gentleman had apologized for his hon. friend, in the style and manner of the show-man, in Goldsmith's comedy, who admired the awkward motions and uncouth gestures of his dancing bear. "However," says he, "may this be my poison, if my bear ever dances but to the very genteelest of tunes, 'water parted from the sea,' and the minuet in Ariadne."

Mr. *Rolle* said, that not all of the hon. gentleman's buffoonery should drive him from his purpose, which was grave and serious, and ought to be gravely treated.

Mr. *Grey* said, that the only merited answer for the hon. gentleman was, the short answer of the Act of Parliament, which had been read. Whether the hon. gentleman's motives were good or not, he would leave others to determine; but he did suspect they were not good, because they tended to involve the country in disunion, alarm, and distrust. He reprobated the rumours alluded to, as false, libellous, and calumniatory, tending to create in the minds of the public, at a most critical moment, suspicions equally derogatory to the honour of the Prince of Wales, and dangerous to the general welfare of the public.

Mr. *Dundas* said, that when he heard that a recent act of parliament was the only reply fit to be given to questions of the deepest importance, he could not submit that a matter of such magnitude should rest on such a point, nor would he agree, that the effect of the Act of Settlement was virtually done away by a posterior act, which did not specifically repeal the clause in a statute, in which the constitution and the country were so deeply interested, as the Act of William and Mary. As little was he willing to submit, that the rumour alluded to, was a question rather to be laughed at than argued. So to state it, was surely paying a bad compliment to the Prince of Wales, and resting his cause on a weak and loose foundation. He was ready to say, that he disbelieved the rumour, for other, and, he conceived, for better reasons. He lamented a thousand and a thousand times the absence of the right hon. gentleman who had made that declaration two sessions ago, which had decided his opinion at that time, and had since continued to preserve it fixed and unmoved. Most especially did he regret the cause of that absence: not that he meant to say, that he was pleased to see so able a political general as the right hon. gentleman the leader of an adverse party in that House; he knew his abilities, his judgment, and his knowledge of political tactics too well, to wish to have him at the head of an opposing corps, though he had no scruple to say, he should like, at all times, to see troops marshalled and led on by an able and skilful general; but he wished for the right hon. gentleman's presence, because he entertained so high an opinion of his sincerity, that he was confident he would have come down to the House, even at the risk of his life, to have stated his sentiments on the motion of the right hon. gentleman behind him, if any point had occurred to have induced him to alter the opinion which he entertained, when the subject had been brought under discussion on a former occasion. On that opinion, solemnly delivered as it had been in that House, he perfectly relied; and, therefore, he was ready to say, he did not give the smallest credit to the rumours which had been so often referred to in the course of debate. The hon. gentleman on the other side seemed anxious to provoke a discussion of the whole subject; he, for one, should feel no delicacy in the world, but for a single consideration, and that was, because two persons must necessarily be made the objects of the discussion. With regard to one of the high and respectable personages alluded to, he certainly should feel but little difficulty, although no man felt more respect for that exalted personage than himself; but with regard to the other amiable character, he confessed, when that sex came into question in that House, he knew not how to agitate a subject of such delicacy. He therefore wished, at all times, to shut the

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door upon such discussions. The hon. gentleman had chosen to argue, that he had a right to impute what motives he pleased to any hon. member; but, surely, the hon. gentleman was the last man living who should use that species of reasoning. Had the hon. gentleman forgotten, that two sessions ago, when a motion was agitated which did appear to be a question personally connected with one of the hon. gentleman's relations, (lord Tankerville), and the motives of agitating such a question were talked of, as unworthy a member of parliament, the hon. gentleman had taken fire on the occasion, and in terms of uncommon warmth and indignation declared, that he deemed it disorderly to impute any motives, other than good motives, to any gentleman who brought forward any question within those walls? Mr. Dundas concluded with hinting to Mr. Grey, that it would have shown more prudence, and have better served the cause, on the behalf of which he had exercised his zeal, if he had restrained that zeal, and taken no part in the debate of that day.

Mr. *Grey* said that, so far from feeling regret for the manner in which he had delivered his sentiments, he was happy at having delivered his opinion since it had drawn from the two right hon. gentlemen express declarations that they neither of them believed the reports so often alluded to in the course of the debate. He repeated his reprobation of those reports as false, libellous, and calumnious. He admitted the justice of Mr. Dundas's remark relative to Mr. Fox, and assured the Committee that it was due to the character of his right hon. friend to declare, that no consideration of health, or any other circumstance, would have prevented his attendance in his place, if he had not, at that moment, been fully satisfied that what he asserted on a former occasion, was strictly true. Had the case been otherwise, his right hon. friend would have been present, even at the risk of his life.

The amendment was then negatived. On the clause in the bill which restrained the Regent from creating peers being read,

Sir *James Johnstone* said, he could not agree to the clause, because he considered it as shutting the door of the House of Lords against the Commons of Great Britain. The restriction ought to be in some sort or other qualified. If the Regent were allowed to make but one peer a-year, he should be satisfied, but he could not agree that the other House should obtain an undue weight in the scale of the constitution, and that the heads of wealthy and respectable families, who had seats in that House, should be debarred from any chance of being elevated to the honours of the peerage.

Mr. *Jolliffe* said, that the royal prerogative of granting the highest honour and dignity which a subject could receive, was, perhaps, the very first privilege of the sovereign, and was given for wise and beneficial purposes, for the advantage of the people, and those who were the objects of government, and for whose benefit all government was erected, and not for any aggrandisement or benefit to the governor. If prudently exercised, it was a power judiciously placed, but should on no account be subject to positive and absolute limitation. The defects arising from an injudicious or lavish exercise of this power went to the augmentation, in too great a proportion, of the aristocratic part of the constitution; but the limiting that prerogative was, to vest in one part of the legislature the whole legislative capacity of the kingdom. The reasons for this prerogative were two: the one to enable the sovereign to reward merit, and to bestow favours on the deserving; the other, to prevent a combination in the House of Peers, which might subvert the very monarchy itself. If this power was well placed in the hands of the King, it must be so in the hands of the Regent; for, misuse of power was as liable to one man as another. If the ministers of the King were censurable for ill advice, so were the ministers of the Regent; and if the government was intended to be well administered, it was as necessary that this power should be in the hands of one as of the other. Merit was liable to arise at all periods, and equally deserved reward. The House of Peers were as subject to a combination during a regency, as at any other period, which required control at all. There could therefore, be no reason assigned for his limitation; the only excuse was, that it was a temporary expedient during the incapacity of the King. But why was merit to go unrewarded? Or, why were the peers to have a positive ascendancy over the other branches of the legislature, during that interval; for no avowed reason, but in reality to give to the right hon. gentleman that power and influence, at which he had long been aiming? Another

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indisputable objection was, that no period, was fixed when this limitation should cease. So that if his Majesty lived for any period however long, and his malady continued, the peers might, in defiance of the other branches of the legislature, shut their doors, and govern the country exactly as they might think proper. He therefore moved, "To limit this restraint for the term of one year."

Lord *North* said, that this restriction, like all the others contained in the Bill, was grounded on the probability of his Majesty's speedy recovery. In debating the resolutions, it had been admitted, that if the period antecedent to his Majesty's recovery should unfortunately prove a long one, this restriction respecting the power of making peers would be improper. It was exceedingly material, therefore, to look to dates. The first of February, which was the time stated in the amendment, was almost a year from that day. As it was two months since they had first examined his Majesty's physicians, and his Majesty had been ill almost as long before, the period prescribed by the amendment would be full fifteen months from the commencement of his Majesty's illness, as laid before the privy council. He appealed, therefore, to the serious consideration of the Committee, whether this restriction did not tend to make the House of Peers form too great a balance in the constitution, to overweigh that House, and destroy the equipoise which the constitution had wisely given, to the three branches of the legislature. If the clause passed without limitation, it would tempt the House of Lords to retain the power which it gave them, and to refuse to part with it, when circumstances might hereafter render it advisable to take off the restriction. By limiting the duration of the restriction to the 1st of February, the House would reserve its own right to exercise its authority. If the King should not then be recovered, they might resume the consideration, and continue it for a longer time, if they should deem it advisable; whereas, if they passed the restriction, without any limitation, they would deprive themselves of the power of exercising their own discretion, and lay the House of Commons at the mercy of the Lords.

Mr. *I. H. Browne* should oppose the amendment, although he had before voted for some limitation of this particular restriction. Whenever they should find themselves unfortunately obliged to consider his Majesty's recovery improbable, he was sure that they would all meet it with the most heart-felt concern. It would, therefore, be too early to become a welcome occasion, let the period be ever so lengthened. At present, they felt some consolation, under the calamitous circumstances of the country, from the assurances of his Majesty's physicians that there was a strong probability of his recovery. They ought, therefore, to allow time for that happy event to take place, and he should think three years not too long a period. Two years at least ought to be allowed.

Mr. *Pitt* disapproved of the amendment, on the same ground which induced him to oppose it when the resolution had been under discussion in the Committee on the State of the Nation. The noble lord had urged the same reasons against it, which he had then advanced, and which had then been answered, and therefore he should not repeat his arguments over again. As to the amendment, he thought one year too short a time for a limitation, if a limitation of any particular restriction were deemed necessary. It was perfectly fair for those gentlemen who had deemed some limitation necessary, to object to the amendment, as proposing a limitation of too short a time.

Mr. *Fitzherbert* contended, that the Regent would become actually excluded from the power of carrying on the government of the country, if the Bill in question should pass into a law. Our ancestors, in framing the constitution, had adopted three branches of the legislature, each of which was to have a distinct and separate power. He was as unwilling to invade the rights of the Crown as of any other branch; but the Bill took away the necessary powers of the Crown, and provided a crippled and enfeebled government. He alluded to the vote, "That the influence of the Crown had increased, was increasing, and ought to be diminished," and asserted, that the Bill tended to diminish it so totally, as to destroy its necessary consequence in the constitution.

Mr. *Martin* was for the amendment, from the apprehension that if, by the time mentioned in it, his Majesty's health should not become restored, there would be a very poor chance of his recovery.

Mr. *Burke* said, he should not scruple to declare that he had always doubted the intentions of the proposer of the resolutions, when he induced the House to pass

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them. He had stated his fears at the time, that it was intended by prevailing on the two Houses previously to pledge themselves, to force them to abandon their deliberative capacity hereafter; and those fears were now fully verified. The right hon. gentleman had declared, that unless any thing new was stated, he would say no more upon the subject. One right hon. gentleman lamented the absence of his right hon. friend a thousand times. Mr. Burke said, he comparatively had reason to lament it ten thousand times. If the right hon. gentleman had lamented the absence of a general, the ablest that ever conducted an opposition army, what ought not his lamentation to be? The right hon. gentleman had a high sense of the phalanx that he fought with. If he ran, he knew he ran with kings. He therefore thought nothing of conquering their irregular army, without their general to lead them. The right hon gentleman reminded him of Montecuculli, who, on the death of marshal Turenne, broke his staff, and said he would fight no more, because he had no enemy left that was worthy to cope with. Mr. Burke adverted to the period of history to which he alluded, and stated facts apposite to his argument, declaring that he wished the right hon. gentleman a happy retirement, conscious as he was that he was opposing an adversary that could ruin him, and who chose that day to conquer, as all good generals would wish to do, without risking a battle. Mr. Burke said, that whether he could produce any thing new or not, he should certainly acquit his conscience, and endeavour to do his duty. He desired in the first place to be shown when, in any regency bill, prior to the present, there had been a limitation of peers? He contended, that the present limitation must be proposed, on a suspicion that the Prince would abuse his trust, or that his Royal Highness's friends were such men as were suspicious, or, from the affected motive that the King would be hurt, if, upon his recovery, he found a change of tables, chairs, and stools about his person; for it was not less absurd to suppose one thing than the other. Mr. Burke, in order to exemplify his argument that the King had, at various times, suffered different men, and at different periods, to increase the peerage, went through a list of the various administrations of late years. He first mentioned the marquis of Rockingham, whose power he observed, had been as large as his heart, and yet that noble marquis in whose footsteps the present whigs professed to tread, was extremely sparing of grants of peerages. Why, then, should it be supposed that they would deviate from an example which they took for their model, when they wished to recommend themselves to the good opinion of the public? In this part of his speech, Mr. Burke suffered his natural warmth to hurry him into a violent invective against the supporters of the Bill. He imputed their insisting on such a restriction as the one under consideration, to the blackness of their hearts, and the rooted degree of their malignity. With regard to the probable prodigal making of peers, Mr. Burke said, it was a slander. The motives could not be formed from the Prince, because those who ascribed them, did not know him; it could not be from the men, because their power had before been exerted without abuse. The duke of Portland, for instance, had often served his Majesty; first as lord chamberlain, which place he filled with high honour; then as lord lieutenant of Ireland, and lastly, as first lord of the treasury; and in each capacity, the noble duke had acted to the satisfaction of his Sovereign. Would it be contended, that his Majesty could be pleased only by one person? Let it be remembered how many and how different the sort of men were, which he had at different times favoured? The earl of Shelburne, who was at one time generally supposed to be disliked by the King, was at a particular period in favour. The right hon. gentleman also, who was once the last person likely to be in favour at court, had since been in favour, and had well repaid that favour! Why, then, was it to be supposed, that persons who had been once in his Majesty's favour, might not be so again? There never had been so many peers made, as during the present administration. He adverted to Mr Rolle's declaration on a former occasion, that there had been persons created peers during the present minister's power, who were not fit to be his grooms, and made a variety of pertinent and pointed animadversions upon it; and yet, he remarked, that at the same time that the right hon. gentleman had made the largest use of this exercise of the royal prerogative, he would not permit a temporary exercise of it by the ministers of the Regent. If, therefore, the Committee put no period to the restriction,

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Mr. Burke said, it was directly against the principles of the constitution; and he asked, if no great men in this kingdom existed worthy of being distinguished, except those whom the right hon. gentleman had distinguished? He contended, that this was an affront to the noble young men of the kingdom, and he put several cases hypothetically of young men of noble families fit to be made peers. He took notice of the declaration of the Lord Chancellor in the House of Peers, that the Prince might indemnify himself by promises, which he considered as an affront to the law, the landed interest, and the noblesse of the House of Commons. Mr. Burke went over lord North's ground of argument, that the restriction in question would tend to support the House of Lords in a combination against the Crown, and to encourage a faction in that House; points which he urged with additional force of argument. In the course of his speech, Mr. Burke more than once, by the vehemence of his manner, caused an expression of laughter from the other side of the House; on one of these occasions he remarked, that gentlemen might laugh poor honesty out of countenance, but they would better prove their claim to respect, by answering his arguments.

Mr. *Thistlethwaite* highly applauded Mr. Pitt's conduct. He had not shown the least disrespect to the Prince of Wales, and there was, in his opinion, no foundation for the complaint of a crippled Regency.

The clause was agreed to. The next clause on which any debate took place, was respecting the grant of pensions and places in reversion.

Lord *North* renewed his argument, that the King ought, on his recovery, to find himself in no worse situation, than before his illness, and that therefore, although the Regent might be restrained from converting any place during pleasure, into a place for life, yet he ought to be enabled to grant places for life, as they fell in. His lordship moved, as an amendment, to insert words substantially, importing that the Regent should have no power to grant such places for life, as were on the 1st of November last, places during his Majesty's pleasure.

After some conversation, the amendment was put, and negatived.

Lord *North* next suggested the propriety of an amendment, grounded on the probable circumstance of the Regent's having occasion to appoint a Lord Chancellor, or a Lord Keeper. In that case, the Regent must necessarily look to high situations in the law, or to barristers in great practice, and as the place of a Lord Chancellor was precarious, from its being a political situation, it could not be expected, that any man would quit the bench or the bar, without some security, in case of dismission from the office of holding the Great Seal, &c. He observed, that judges held their offices, "quamdiù se bene gesserint," and that the place of a Lord Chancellor was properly during pleasure. What, therefore, he asked, could induce a judge, who held his office for life, or a barrister who might get from five to seven thousand a year by his practice, to quit either for the Great Seals, which he might not perhaps hold for a fortnight, unless some security was afforded him by a reversionary office? The avowed principle on which it was declared a Regent ought to be appointed, was, that he should choose his political servants, and surely it would be admitted, that a Lord Chancellor was as essential a political servant, as any other. He had, therefore, prepared some words to come in by way of addition to the clause, but he did not think that a sufficient security, because, in case a place of reversion was given to a Lord Chancellor, either upon resignation or dismission, the person who had held the seals, might be a considerable time without any provision. He therefore meant to move a clause, (which he was aware, must be proposed at the end of the Bill, but which he thought it fair to state then, as it made an essential part of the consideration) that the Regent should be impowered to grant such person accepting the office of Lord Chancellor, a floating pension of 2700*l.* a year. The reason of his taking the particular sum of 2700*l.* a year was, because that was the sum allotted by Mr. Burke's bill, for the reform of the Civil List, to tellers of the Exchequer, in lieu of their emoluments heretofore. This his lordship said, was a less sum than any lawyer and barrister of great business must quit when he accepted of the place of Lord Chancellor. His lordship concluded with intreating, that both the one and the other might be read, as they made a part of the same object.

The amendment, and the intended clause were accordingly read.

Mr. *Burke* made a short speech in re-

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lation to his own bill, the object of which he complained had been frustrated by the conduct of those who had acted on a different system.

The Marquis of *Graham* objected to the amendment, and to the clause, because he conceived they tended to give the Regent a power beyond any that the Crown enjoyed.

Mr. *Pitt* said, he believed it was not parliamentary to discuss, whether there was a certainty of finding a successor to the noble and learned lord, who now held the Great Seals; he hoped so unfortunate a circumstance as the country being deprived of the assistance of so able a minister was not likely to happen; certain he was, a fit successor could not easily be found. When this matter had been alluded to by the right hon. gentleman, who was absent, he had fairly stated what he thought to be the fact, that there ought to be the means of inducing a person fit to hold the office, to take the Great Seal. He was of the same opinion still, but he did not conceive the House ought to anticipate such a vacancy, and to provide for it before it happened. With regard to the sum of 2700*l.* a year as the amount of a floating pension, to provide for the person who might be dismissed from the Great Seal, he thought it a fair proposal; but he objected to its being adopted, as part of the present Bill, because he deemed it both premature and unnecessary. Whenever the occasion occurred, a bill might be brought in to provide for it, and he saw not the smallest objection that could be made to it; but if they agreed to it now, they would seem to anticipate a declaration of an opinion, that the Regent must necessarily have a new Chancellor, an event which he was persuaded would be seriously lamented by the country.

Lord *North* said, that he hoped, with the right hon. gentleman, there might be no occasion; but he must say, that if the power was not put into the Regent's hands, they receded from their declaration of giving him the power of choosing his political servants. If upon a vacancy of the Great Seal, the matter was to be debated again, it was breaking the corner stone of the plan, the foundation of which was, that the Regent, and not the parliament, should have the choice of his political servants.

Mr. *Pitt* persisted in his argument that the amendment was not necessary, as no objection could be made, when the occasion to apply to parliament should be necessary.

Lord *North* contended, that it was and had been usual for parliament to interfere with ministry holding their places, by addressing the Crown to remove certain ministers from its councils but it had never gone so far, as to advise the Crown to appoint A. B. or C. D. ministers, and that, he contended, would in effect be the consequence of not adopting his amendment.

The Committee proceeded through the next clause, respecting the Duchy of Lancaster. After which the chairman reported progress, and asked leave to sit again.

Feb. 9. The House having again resolved itself into a Committee on the Regency Bill, on the clause respecting the care of the King's property being read,

Mr. *Anstruther* observed, that though this clause stated that the care or management of the King's property should not be in the Prince of Wales, yet it was totally silent in what hands it should vest. There had been various accounts concerning the vast amount of that property; whatever it might be, it was but right that it should be properly taken care of, and not be so placed that it might be embezzled by anonymous purloiners, whom nobody could call to account, because nobody knew. He was therefore of opinion, that a commission be appointed, to consist of the Queen, the Princes of the Blood, the great Officers of State, the Lord Chancellor, and the two Chief Justices, for executing the said trust.

Mr. *Pitt* said, that as to the amount of that property, he believed there could be nothing but guess-work; at least he had no clue by which to enable him to form any thing like a judgment; whatever it might be, it had already been deposited in such hands as would always be obliged to account for their trust.

Mr. *Burke* supported the proposition offered by Mr. Anstruther, and considered this as a farther proof of the unjust and illiberal treatment of the Princes of the Blood Royal, who were thus excluded from, and deemed unworthy of any share of that trust, in which they had undoubtedly the first interest and the deepest concern.

The clause passed without amendment.

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The fourteenth clause, providing for the payment of his Majesty's household, under the direction of her Majesty being read,

Sir *James Erskine* opposed it, as granting larger powers than were necessary, and insisted that the expense of the household might be much diminished.

Mr. *Pitt* said, that some circumstances arising from his Majesty's situation, rather tended to increase than diminish the expense of some parts of the household.

Mr. *Sheridan* objected to the clause, as wholly unnecessary, and as tending to create a double government of the household, in the Queen, and in the Treasury.

Mr. *Pitt* replied, that there would be no double government, the Treasury having no more to do with the household, by the present clause, than to issue the sums ordered.

Mr. *Burke* maintained, that the clause might probably introduce, not only the subversion of the Act of Establishment of the Civil List, but the subversion of economy, as being calculated only for the purpose of providing for a favourite and necessary corps.

Mr. Powys moved, that the clause be postponed, in which motion he was supported by lord North, upon the ground of the propriety of deciding upon a subsequent clause first, which was the basis of the present. Upon this, the Committee divided: Yeas, 87; Noes, 132. The clause was then agreed to.

On the clause for appropriating the King's privy purse,

Mr. *Dempster* contended against the impropriety of excluding the Prince from all opportunity of exercising that charity for which it was chiefly intended.

Sir *W. Molesworth* felt the impropriety of the measure so forcibly, that were he to stand single, he was determined to divide the House in favour of the Prince.

Sir *W. Cunynghame* bore testimony to the charity of the Prince in giving 200*l.* to the poor of Edinburgh during the late inclement season.

Mr. *Dundas* did not mean to detract from the Prince's merit in so doing, but it was no more than his father and grandfather had done before him, they having annually sent 200*l.* to that city.

Mr. *Burke* remarked on the gradual increase of the privy purse, from 36,000*l* in the late king's reign, to 60,000*l.* in the present, a sum which was independant of every other possible expense the King could be at: of this the Queen was to have 4000*l.* for guessing what charities the King would wish to bestow: but the Prince, who might be supposed to know as well as any other, was not to be allowed one shilling; and yet he would venture to say, that without any ill compliment to her Majesty, the charitable disposition of the Prince stood as high as that of any other person whatever; witness the care he had taken of a very respectable gentleman, who was supposed to be very nearly related to him, his uncle by half blood, whom he had relieved from almost indigence and obscurity, by a munificent and well-timed pension, besides a hundred other instances which it would be tedious to mention. How unjust was it then, to compare his bounty with that of the King. We read, that the widow's two mites were more acceptable in the sight of Heaven, than all the wealthy offerings of the whole world to the Temple. How much more laudable, then, did his 200*l.* appear, when it was known that the whole of his income, by which he was to support not only the dignity of Prince of Wales, but the dignity and splendour of the British Crown, as Regent, upon only 10,000*l.* more than the King's mere pocket money.

Sir *W. Molesworth* said, that he did not mean to contend against the sum proposed to be taken from the money of his Majesty's privy purse, which was appropriated to the charities mentioned; but not thinking it proper that the remainder should be kept from the Prince, he moved, as an amendment, to add the words, "and that the remainder shall be paid over to the treasurer of the privy purse of the Regent."

Upon this amendment the Committee divided: Yeas, 101; Noes, 156.

The seventeenth clause was next read, vesting in her Majesty the care of the King's person, and the government of the household.

Mr. *Powys* objected to that part of the clause which gave her Majesty power over the household; he condemned it as a division of power with the executive authority, which was unjustifiable and inadmissible. The power given to her Majesty over the household, and the clause restraining the Regent from creating Peers, paved the way for the introduction of a dangerous controul over the two Houses, and the country, which was put into irresponsible hands. He concluded, by moving an amendment to the preamble of the clause, leaving it open for future revision.

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Mr. *Pitt* agreed to the amendment, and said, that in the course of the business one of the principles which he had always invariably maintained was, that the whole of the bill ought constantly to be kept open, and subject to the future revision and alteration of Parliament.

The amendment being put and agreed to, was inserted in the clause.

Sir *Peter Burrell* condemned the latter part of the clause, the patronage given by which, he said, was so loosely expressed, that it was impossible to ascertain the amount of it, and of which he conceived the House ought to be acquainted previously to their adopting the clause.

Mr. *Pitt* assured the hon. baronet, that the whole amount of the salaries of the household, from the great officers at the head of the different departments, down to the most menial servants in any of the palaces, or the stables, was no more than 100,000*l.* per annum; out of which sum there was no more than about 30,000*l.* received for salaries by members of the two Houses of Parliament; there were seven in the House of Commons, whose salaries amounted to about 4000*l.* and eighteen Lords in the other House, whose salaries amounted to about 26,000*l.* Such influence was not, likely hereafter to preclude any revision or necessary alteration in the system proposed for the present emergency.

Lord *North* observed that in spite of all that had been advanced, he could not yet perceive that it was a self-evident proposition, that all the officers of the household must be made subject to the controul and nomination of the Committee of the King. He denied that it was a self-evident proposition; nor could he imagine that the Queen ought to have any power or controul over any officers of the household, excepting only such of those officers as were, from their situation in the household, obliged to attend upon the King's person. The rest of the officers who could be of no service to the King's person, ought not, in his opinion, to be under the controul of the Committee of the King, but ought to be annexed to the person who actually exercised the royal authority. Why could not the right hon. gentleman try to separate the household? To separate the regal office from the royal prerogative seemed a difficult point; but, to separate the grooms, the equerries, and the pages, from the lord chamberlain, the lord steward, and the master of the horse, had been deemed almost impracticable, and yet it was of the utmost consequence. He asked, which of the two evils was the greatest, and which was of the most consequence, and established the worst precedent—the separating of the household, or the withholding from the Regent the source of that general influence which the constitution had deemed necessary to be given to the Crown and to the executive power of the country; that general influence without which the Crown could not exercise its duties? In all general influence there was necessarily a degree of parliamentary and political influence; but he saw no harm in this, and yet this influence was treated as of very little consequence. The right hon. gentleman had acknowledged that eighteen peers of parliament belonged to the household. Did gentlemen consider that eighteen peers voting on one side, made the difference of thirty-six on a division; and was that nothing? He did not say that a bad use would be made of that influence; but the withholding it from the person exercising the royal authority, was contrary to the principles of the constitution. It had been argued, that it would prove a comfort to the King to see his household about him; yet, for his part, he could see no comfort which could accrue to his Majesty, during his illness, by having this power of his representative vested in other hands. Who would say, that his Majesty himself, when he recovered, would not revolt at such a principle? He had not heard what single royal duty was not expected from the Regent; and therefore, if the Regent was to continue charged with the whole duties of a king, why was he to be curtailed in his prerogatives? The consequences of introducing such a new principle into the constitution, might, when his Majesty should be restored, disturb the peace of his reign. The constitution annexed all the power of the royal prerogatives to the Crown, because all this power was necessary. If it were not necessary, it was too much, and if too much, it was pernicious, and ought to be abolished. Might not, at a future period, that question be agitated in respect to the power of the Crown? Might they not reason thus, and say, what is gained from the Crown is gained to the people? No, his Majesty would say, "the constitution gave me all the prerogatives, and my government cannot stand without them." They might then answer, as the right hon. gentleman answered now, "Let

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your Majesty's ministers act rightly, and they will not want this patronage." With regard to the persons holding the great offices in the household at present, was it thought that their loss would be irreparable? Would it be so great a public misfortune for them to be changed, that they were to have their places secured to them? He did not mean to speak disrespectfully of the present officers of the household; but he was confident that there might be found among the young nobility, many qualified to fill every one of their places. What were the qualifications to make an officer of the Court? Good manners, politeness, breeding, and some degree of personal dignity. To fill an office about the court, it was not necessary to serve an apprenticeship to it, as to an art or a craft. An officer of the court might be said, generally speaking, to be like a poet, *nascitur non fit*. His situation might proceed oftener from his birth than his education. There were, therefore, many persons capable of it; and, as to the change of the household giving his Majesty pain, when he recovered, if it should give him a moment's uneasiness, it could be remedied immediately. No mischief could possibly arise from it. Lord North, addressing the chairman by name, said, "You, Mr. Watson, as a man who have been engaged in mercantile concerns, have no doubt, often heard of a maxim of trade, which I heard of early in life; it was this; take care of the pence, and the pounds will take care of themselves." The meaning, he conceived was, take care of small things, and they will enable you to secure the greater objects. But, it was said, it would secure the services of the present ministers. That was, undoubtedly, a great object, but even gold might be bought too dear; and if a great rule of government was to be sacrificed to any ministers, he should be of opinion that parliament and the public paid a very dear price for such an acquisition.

Mr. *Grosvenor* said, that the greater part of the noble lord's argument went against the whole of the clause. The noble lord had said, that all the powers of the Crown were necessary; he admitted that they were so, but the Committee ought to remember, that they were not going to make a king, but a regent. He had very deliberately considered the whole of the system contained in the bill, and was convinced that the conduct of the Chancellor of the Exchequer, and every part of his system, had been wise, distinct, discreet, prudent, and loyal. Had there remained in his mind any doubt upon either, that doubt would have been effectually removed by a speech which he had lately heard from the right hon. gentleman, who filled the chair of the House. Sounder argument he had never heard. Every sentence the right hon. gentleman had uttered, tended to confirm him in the opinion, that the steps taken by the two Houses were legal and constitutional.

General *Norton* contended, that the Lord Chamberlain, Lord Steward, and the Master of the Horse, with the lords of the bedchamber, were the political servants of the Crown, and not the mere domestics of the King. Their duties chiefly consisted in making a part of the pageantry that surrounded the King on public occasions. He thought those great officers, under the present unfortunate circumstances of his Majesty, contributed neither to the service nor to the comfort of the Sovereign, because they could have nothing to do near him.

Mr. *Wilbraham* said, it had been justly remarked, that the whole House of Brunswick were excluded from the present bill. It was a most unaccountable exclusion. He saw no reason why her Majesty should be the sole committee of the King's person. He thought that the Prince ought to have been joint committee with her Majesty, and that would have removed much of the objection to which the clause was liable. But, if it were deemed improper that the Prince of Wales should have any share in the custody of the King's person, what had the duke of York done, that he should not have been named jointly with her Majesty? Had the duke of York given such proofs of his want of filial affection, that he deserved to be passed by? Why also had the two brothers of the King been wholly unnoticed in the bill.

Mr. *Keene* stated the number of officers in the household, declaring that they amounted to nearly 150. He spoke also of the influence arising from other circumstances in the household, and particularly exemplified the duty and the patronage of the Lord Chamberlain, in order to prove that he was an officer of state, and an officer possessing great weight and influence. When a foreign minister left this country, he stated what the Lord Chamberlain's duty was, thereby proving that he was an officer

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absolutely necessary to be about the person of the King or his representative. Among the instances of his patronage, he spoke of the appointing the King's Chaplains, a favour often conferred on the members of that House, by the nomination of their friends and relations; the appointment of the Exchequer Officers, the Yeomen of the Guard, the Gentlemen Ushers, and many others.

Mr. *Pitt* asked, whether it was possible for gentlemen seriously to suppose that they could not invest the Regent with royal dignity, but by depriving the King of every sort of dignity whatever? The grounds of objection to the clause were now stated to be that of parliamentary influence; grounds which he would venture to say it was wholly unusual to take broadly and openly in that House; because, whatever might have been gentlemen's private opinions respecting that particular kind of influence, it never had been avowed to be necessary to government, till the lords had thought proper to avow it that day. When it was said, that it was necessary to keep up the state and splendor of the Regent, by decorating him with those external marks of the royal dignity, ought not the King's dignity to be kept up by such marks? Ought they, in the earliest moments of his Majesty's illness, to be eager to strip him of every mark of dignity, in order to deck out the Regent with unnecessary powers? He contended, that they ought not; but it was their duty to manifest that they had not forgotten the reverence due to a sovereign, who had, throughout his reign, proved himself the father of his people. Gentlemen were aware that it was intended, at a fit opportunity, to provide for the Regent such an establishment, as should be adequate to invest him with a degree of state and dignity, which the exalted situation he was to fill rendered necessary for the honour of the nation.

Lord *North* said, that the right hon. gentleman seemed to reduce them to the alternative of giving the Regent the government of the country, without any part of the splendour, which of right belonged to the royal authority, or of calling upon the public to bear the burthen of providing a new additional household for the Regent; an expense which the public thought, perhaps, it had already provided for. The true way of supporting his Majesty's dignity was, by supporting that of his representative. With regard to the charge against him, on the ground of his having avowed that the Regent ought to have the patronage of the household, for the sake of the parliamentary influence which accompanied it, he declared he had avowed no such doctrine, but had said, that the patronage of the household certainly gave some general, and, of course, parliamentary influence.

Mr. *Marsham* said, that it was his duty to trouble the House with a few words, after the manner in which the right hon. gentleman had delivered his sentiments. He would affirm, that there were members of parliament under influence. He reminded the Committee, how often they had attempted, by various bills, to prevent persons holding places, from having seats in that House; and it was no reflection on the persons so disqualified. He instanced the Excise and Customs, in which every person enjoying a salary of four or 500*l.* a year, was, by act of parliament, rendered incapable of a seat in that House. With regard to the influence resulting from the patronage of the King's household, if the right hon. gentleman would add to it the weight of influence arising from the members of the two Houses holding places in the household of the Queen, and would put the parliamentary influence of the two households together, he would find that the number would be nearer sixty than thirty. He was one of those who had supported the restriction which prevented the Regent from making peers. He thought that, under the present circumstance, a right restriction. With regard to the imposing an additional burthen on the people, by establishing a new household for the Regent, he should oppose such a proposition. He reminded the Committee of the unexampled weight of the taxes, and spoke in terms of great praise of the patience with which the people bore them. He asked, if there ever had been in that country, a war concluded without a single tax being taken off? Most assuredly there had not. Why, then, should the people be additionally burthened, when there was an useless household existing already?

Mr. *Powys* said, that he would oppose the motion for a new household, whenever it should be brought forward.

Mr. *Sheridan* said, that if the right hon. gentleman was in earnest in his proposition, they might effect a division in the household, as proposed by the noble lord near him. He added, that whilst the right hon. gentleman was throwing out jealousies

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and insults against another person, he was assuming the highest degree of confidence to himself, by expecting that it was to be believed explicitly, that he would make no use of the parliamentary influence he was providing to support him out of office. The right hon. gentleman had termed the Lord Steward, the Master of the Horse, and the Lord Chamberlain, on a former occasion, the menial servants of the King, like those to be found in the families of most noblemen. Was there any truth in this comparison? Had the menial servants of noblemen any public duties? and would it be contended, that the great officers of the household had not very high and important public duties? These were, and had ever been, considered as the great officers of the Crown; and that they had been so deemed, was evident from an act passed in the reign of Henry 8, to which he referred. Having read the extract, he took notice of Mr. Grosvenor's declaration, that the House had not, thank God, a king to make. He said, were he not aware that the hon. gentleman was a friend to the monarchy, he should have thought that the language of a republican, who wished to shake the monarchy, and introduce another form of government. Under the idea of affection to the King, they were endeavouring to subvert the royal prerogative. Let those gentlemen separate the personal idea of a king from a monarchy, and they would see what a blow had been aimed at the monarchy. Was it nothing to have been without the representative of a king for almost four months, during which time the arm of government had remained inanimate? The right hon. gentleman having represented his Majesty as destitute of dignity, unless he had the white staves with him, was a libel on his Majesty's feelings, as a father and a king, and argued that he was destitute of the dignified sentiments which ought to inspire the one character, and the tender affection which should fill the breast of the other. If his Majesty reigned in the hearts of his people, and it was true that he did, it was the less necessary that his calamity should be contrasted with the appearance of grandeur, an ostentatious parade be made of disease, and the melancholy situation of his Majesty rendered indeed more public and more distressing. He condemned the idea of the Queen's having the power to change the officers of the household in her own name, observing, that they had all been appointed in his Majesty's name. If it was so necessary to keep the household remaining, the places ought to be put in a state of suspension and abeyance during the continuance of his Majesty's unhappy malady, and the words "salary, profits, and emoluments," left out of the clause. He spoke of the indecency of the officers of the household coming down to that House, and voting their own salaries, when they were conscious it was not likely for them to be called upon to do any duty. He noticed the declaration of Mr. Pitt to make new establishments for the Regent. He asked how the right hon. gentleman could dare to suggest such an idea, after having heard the declaration, from authority, that the Prince of Wales desired to have no such establishment created as should cause fresh burthens to be laid on the people? Did the right hon. gentleman mean not to leave the Prince the free will to refuse the establishment, if offered? Had he forgotten what he had heard upon the subject from his right hon. friend? The right hon. gentleman must, he said, have a pretty considerable share of presumption in taking it for granted, that the King, on his recovery, would be pleased to hear that a new tax had been imposed on his people. He believed his Majesty would consider it as the most fatal consequence of his illness, if it had caused his subjects to sustain an addition to the burthens under which they already laboured.

Mr. *M. Montague* considered the idea of the Queen's obstructing the government of her own son, as most unnatural and improbable. He spoke of her Majesty's high character and moderation hitherto, and declared that politics must be a strange science, so totally to obstruct every feeling of parental regard and maternal affection.

Sir *W. Dolben* said, that the Regent having the office and duties of a King, should also have some of the patronage of the Crown; and yet, he could not admit, that the officers of the household were the political servants of the Crown. The superior officers might very properly attend the Regent; and if there were any dismissions, they ought to be in the name of her Majesty; but, the supply of the vacancies should be in the Regent. He thought there was as much patronage annexed to the Regency as ought to belong to it. He was aware, that there were many claimants for the loaves and fishes; that some would faint by the road-side, and others the Prince would be forced

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to send empty away; but then, he would have many vacancies to fill, and more would fall in every day.

Mr. *Burke* said, that the House was almost exhausted, and that his power of engaging their attention was almost exhausted likewise, though the subject was by no means exhausted; he would, therefore, for the present, only say a few words on the astonishing assertions of the right hon. gentleman. To justify that panegyric on the Sovereign which the right hon. gentleman had pronounced, he was called upon to bring him forth as a pageant, dressed up with useless splendour and degrading dignity, to serve the purposes of ambitious men. The right hon. gentleman had asked, would they strip the King of every mark of royalty, and transfer all the dignities of the Crown to another person? No, Heaven forbid, when the person wearing the Crown could lend a grace to those dignities, and derive a lustre from the splendour of his household. But, did they recollect that they were talking of a sick King, of a Monarch smitten by the hand of Omnipotence, and that the Almighty had hurled him from his throne, and plunged him into a condition which drew down upon him the pity of the meanest peasant in his kingdom — Mr. Burke was called to order by the other side of the House. The Marquis of Graham said, that neither the right hon. gentleman, nor any other man in that House, should dare to say the King was hurled from his throne.—There being a general cry of "Take down his words," Mr. Burke rose again, and as soon as he had obtained a hearing, said, he would give gentlemen a full opportunity of taking down his words. He declared that he had been interrupted in the midst of a sentence, and that scripture itself, so maimed and mangled, might be rendered blasphemy. But when it was said in their churches, that the King was afflicted for their sins, might it not be said, that he was struck by the hand of God. At a time when they were putting up their prayers in their temples to Heaven to restore the King, prostrating themselves before the Deity, and declaring that it was in punishment of their iniquities that the Sovereign was taken ill (which he thought had better not have been said) might he not have liberty to declare that Omnipotence had smitten his Majesty? His illness was caused by no act of theirs; but ought they, at that hour of sickness and calamity, to clothe his bed with purple? Ought they to make a mockery of him, to put a crown of thorns on his head, a reed in his hand, and dressing him in a raiment of purple, to cry, "Hail! King of the Britons!"— Mr. Burke censured the idea of giving the powers of the Crown to one person, and its patronage to another; because, at a moment like the present, every precaution should be taken to preserve the safety of the constitution, and the lustre of the royal dignity unimpaired: but, was that the way to effect it? As the right hon. gentleman had planned the business, the government would be weak, enervated, and altogether destitute of dignity; there would be no mark of royalty about the Regent for ambassadors to observe, and thence the country would stand degraded and sunk in the eyes of all Europe, and, however we might pass it over, and put up with the inconvenience among ourselves at home, the impression given of our government abroad was highly material. How would the King, on his recovery, be pleased at seeing the patronage of the household taken from the Prince of Wales, his representative, and given to the Queen? He must be shocked at the idea, unless they supposed, what it was monstrous to suppose, that the King was a good husband and a bad father. An hon. gentleman had said, that they were not going to make a king. He was afraid they were. It was meant that the person who should represent his Majesty, should not have the attendance which ought to accompany royalty. When had such a project been ever before practised as a separation of the royal dignity from the regal office? He put the case of a minor king, of seventeen years, and said, in that case, would not a regent be provided and invested with all the royal dignity of a king? He referred to the Regency Bills in the reign of George 2, and the Regency Bill passed in the present reign, and contended, that in both, the full powers were given. He maintained also, that the royal family were noticed in each, whereas they were totally excluded from the present Bill, and power of an enormous magnitude was taken out of the hands of the King's eldest son, and put into the hands of a person not of his Majesty's blood. The Regent was tied up from making peers; he was debarred from granting pensions and offices; he was restrained from exercising charities, bestowing bounties, or doing any one grateful office

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which served as a balance against the dreadful attributes of sovereignty. Where was he to get money to distribute bounties? Was he to take it out of his own privy purse, or the receipts of the little paltry duchy of Lancaster? To the Queen the House proposed to be prodigal; to the heir apparent they had not given the least dignity in the world. What were they then doing? They were about to give a mock crown, a tinsel robe, and a sceptre from the theatre, lackered over, and unreal; and at the same time, they rendered it necessary to tax the people, so that the Prince's name should never be mentioned without some recollection which must excite unpopularity. The right hon. gentleman was to have 300,000*l.* influence when he went out. The right hon. gentleman thought the Prince might do without influence, although he knew that he could not do without it himself. In former times, the way to popularity was, by standing up in defence of the liberties of the people, but the right hon. gentleman was born for the age in which he lived; he took another road; his first object was by some means or other, to get court favour, and having obtained indirectly a degree of power, he thought to gain popularity afterwards, if he could. The right hon. gentleman had contrived the Bill to fortify himself when out of office. The separation of power from royalty must destroy the representation of this country, or the Queen's government must destroy the Regent's. His Majesty might continue ill for twenty years, and then, what a state of anarchy, disunion, and difficulty, the divided government they were setting up, would create! By depriving the Regent of the power of making peers, they had shut the door of the House of Lords against the people. They had put it out of their own power ever to correct their error, and made the House of Lords the great, independent, and omnipotent branch of the legislature.

Mr. *Pitt* said, that in the right hon. gentleman's speech, he seemed rather to have addressed him personally, than endeavoured to argue the clause in question. The right hon. gentleman appeared to think that his going out of office, was a point of greater importance than any thing contained in the clause under consideration. The right hon. gentleman had charged him with having told the House he was going out of office; the fact was, he never had told them any such thing, nor did he know that he was to go out. But whether he staid in, or went out, he should endeavour to be serviceable to his country. —The next argument the right hon. gentleman had resorted to, by way of charge against him, was neither more nor less than a direct fiction, because the right hon. gentleman had chosen to say, that he was to have a connexion with the power placed in the Queen's hands; an assertion which was a fiction, as he most undoubtedly was to have no such connection. Another matter the right hon. gentleman had repeatedly mentioned was, that the amount of the patronage was 300,000*l.* a year. The right hon. gentleman did not know the civil list, if he said the offices amounted to 300,000*l.* a year. The sum did not amount altogether to much above 200,000*l.*, and in that sum were included all the approved tradesmen's bills, amounting to near half the money, and which had no connexion whatever with political or parliamentary influence. Mr. Pitt defended himself from having called the Lord Chamberlain, the Lord Steward, and the Master of the Horse, the menial servants of the Crown, and said, it was the very term bestowed on those officers by the right hon. gentleman in his own bill, for the reform of the civil list. He then took notice of Mr. Sheridan's assertion, that the best way to support royalty was, to separate the person of the King from every royal dignity. He denied that his Majesty was at present in a humiliating condition; instead of his state being low, abject, and degrading, as the right hon. gentleman had described it, it was very much the contrary.

Mr. *Sheridan* said, that with regard to the sum of 300,000*l.* which his right hon. friend had said was the amount of the patronage of the household, the Chancellor of the Exchequer had denied that it amounted to so much; but the Committee would recollect, that the right hon. gentleman had told them, first, that it amounted only to 100,000*l.* a year, and in his last speech he had acknowledged, that it amounted to more than 200,000*l.* a year. The right hon. gentleman had averred, that more than one half of that sum consisted of the approved bills of tradesmen, which had nothing to do with parliamentary influence. He denied the fact to be so. He could easily see how great a degree of parliamentary influence arose out of those bills. Was there never such a

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thing as a Westminster election? Would the right hon. gentleman, with that orange cape to his coat, take upon him to declare, that no parliamentary influence could be exercised through the medium of the tradesmen of the household, at such an election? He contended, that both at an election, and in various ways, influence would result from the tradesmen's bills, as well as from the officers of admitted importance in the household. He added, that he should move an amendment, to fulfil the idea of the noble lord near him, of separating those officers of the household, who were merely officers of state. With this view he then moved to annex some words to the clause, purporting to impower her Majesty to have the direction and control over such officers of the household, as should be deemed necessary to attend about his Majesty's royal person.

Mr. *Pitt* objected to it, because it was inconsistent with the principles on which they argued, and with the mode of proceeding. If the Amendment were agreed to, it would be necessary to move an additional clause to explain to what the general words of the Amendment referred.

After a short conversation, the Committee divided on Mr. Sheridan's amendment: Yeas, 118; Noes, 173. The original clause was then agreed to.

Feb. 10. The House being again in a Committee on the Regency Bill, Mr. Alderman Watson in the chair, the following clause was read:

"And whereas the execution of the weighty and arduous trusts, hereby committed to the Queen's most excellent Majesty, in respect of the care of his Majesty's royal person, and of the disposing, ordering, and managing of all matters and things relating thereto, may require the assistance of a council, with whom her Majesty may consult and advise in the discharge of the same; be it therefore enacted, by the authority aforesaid, that, in order to assist and advise her said most excellent Majesty, in the several matters aforesaid, there shall be, during the continuance of his Majesty's illness, a council, consisting of Which council shall, from time to time, meet as her Majesty shall be pleased to direct; and, if it should happen that any of them, the said should depart this life, then, and in such case, it shall be lawful for the Queen's most excellent Majesty, by an instrument in writing, signed and sealed by her Majesty, revocable at her will and pleasure, to nominate and appoint some one person, being, or having been a member of one of his Majesty's most hon. privy council, to be a member of the said council, to advise and assist her Majesty in the room and place of each and every of the said counsellors so departing this life; which nomination and appointment shall be forthwith certified by an instrument in writing, signed and sealed by her Majesty, to the lords of his Majesty's most hon. privy council, and shall be entered in the books thereof."

Mr *Pitt* rose for the purpose of proposing to fill up the first blank, with the names of such persons as the House might think proper to nominate, to assist her Majesty in the trust appointed her for the care of his Majesty's person. It would be necessary to put the question singly on each person proposed; but for the satisfaction of the House, he would, previous to his putting any single name, submit to the House the whole of the names which he meant to propose to fill up the blank. He meant to propose the heads of the different departments over which her Majesty was to have control. Those persons, he had no doubt, would be admitted to be proper; but as it might appear necessary to have other great and important persons to assist her Majesty, it was natural to look to the heads of the church and the law. The persons whom he should, therefore, submit to the committee as proper to be of her Majesty's council, were the two heads of the church, the Archbishops of Canterbury and York, and the heads of the law, the Lord Chancellor and the Chief Justice of the King's Bench. These persons, in addition to the respect of their high situations, had been approved by his Majesty, and no persons, he conceived, were more proper to be appointed of her Majesty's council, than those who had been approved of by his Majesty for their ability and integrity. In addition to those persons, he should have to mention the four officers at the head of the departments of the household for the time being; the Lord Chamberlain, the Lord Steward, the Master of the Horse, and the Groom of the Stole. His first motion, therefore would be, "That John, Lord Archbishop of Canterbury, be one of her Majesty's council."

Lord *North* rose not to oppose the no-

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mination of that respectable prelate as one of her Majesty's council. The point to which he should allude was of the first importance. He had expected, that on opening the subject, the right hon. gentleman would not have omitted those who were nearest in blood and affection to his and her Majesty. If the House should agree with him, that an insertion ought to have been made of the princes of the blood, he would make a motion for such purpose. It seemed proper, to name his Majesty's sons, the princes who were of full age, and his royal brothers. They were the nearest to his Majesty, and the persons, he should think, whom her Majesty would choose to have for advisers. —There were several reasons why the princes of the blood ought to be of the Queen's council. It was a council not to control, but to advise her Majesty. The clause also provided for the death of the person properest to have the care of his Majesty, in which case the power was to devolve on her council. This appeared an additional reason to mix some of the princes of the blood in the council. Lord North adverted to the different mode proposed to appoint her Majesty's council, four being appointed by name, and the other four by virtue of their offices, in which last manner, he contended, that they all ought to be appointed. With respect to those proposed, he thought them proper; but, why should the right hon. gentleman think a groom of the stole, a lord chamberlain, a lord high steward, and a master of the horse, were counsellors by virtue of their offices? His Majesty had certainly appointed viscount Weymouth to the first of these offices; he had given a lord chamberlain's staff to the earl of Salisbury, a lord steward's staff to the duke of Chandos, and made the duke of Montague master of the horse; but did those appointments peculiarly qualify them for counsellors? Seeing, therefore, no reason that could be adduced against the insertion of the names of the princes of the blood, he gave notice, that when the persons proposed by the right hon. gentleman should be disposed of, he would move for the insertion of the names of the duke of York, and the other princes of the blood.

Mr. *Dempster* declared himself not satisfied with the nomination; considering the members of that House as much interested and as ardently wishing for the recovery of his Majesty as any courtier, he was amazed that the Speaker of that House and the Lord Mayor of London for the time being, should have been omitted, and signified his intention of proposing the insertion of those officers.

Lord *Maitland* said, the omission of the Chief Justice of the Common Pleas was very extraordinary. In whom had his Majesty placed greater confidence? He suspected the right hon. gentleman was influenced by politics in the choice of persons to fill her Majesty's council.

Sir *Peter Burrell* wished to know, as there were but eight counsellors provided for her Majesty, whether she was to have the casting vote. He also wished to know why four of the council were to be permanent, and the other four left to the nomination and removal of her Majesty?

The Marquis of *Graham* said, that this was a council of advice, not of control. The Queen needed no casting vote, and it was at her option whether she would take or reject the advice her council gave her. In answer to the proposition for introducing into the council princes of the blood, he said, there appeared to him a clear line for their exclusion. They were so connected with that great personage by the ties of affection, that they would be at all times ready to give their advice, and they could give it without responsibility. It would, therefore, be improper to appoint them to responsible situations, making them liable to be brought to the bar of that House and examined, when other persons of great abilities and learned in the law, could be found to occupy those situations. In answer to the proposition for admitting the Chief Justice of the Common Pleas, he said, he knew not where they were to stop, if every man wise and great enough for this council was to be a member of it; they might appoint more members for such a council than formed the House of Commons.

Mr. *Sheridan* considered the proposition as unnatural and unprecedented. It had been urged, that the princes of the blood could give their advice to her Majesty without being appointed of the council; but their advice, however good, might be useless, because they were not of the council, without the majority of which her Majesty could not act upon the most important occasion—the restoration of his Majesty to his government. It could be no degradation to the princes of the blood to be put into a responsible situation, when the first prince of the

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blood, the Prince of Wales, was appointed to a place of great trust and responsibility. He considered her Majesty's sons and the King's brothers to be her most proper and natural advisers, and he deprecated the measures proposed as tending to infuse into her Majesty a suspicion that her sons were not the proper persons to counsel her.

Mr. *M. A. Taylor* objected to the four members of the household being members of the council. He had no objection to lord Thurlow's being one of the council, but he objected to his being appointed by name, thinking that it ought to stand, the lord chancellor for the time being. He objected to the lords of the household, because they were under the nomination of the Queen, who ought to have independant advisers. The lords of the household could not be independant advisers being removable at the Queen's pleasure. He wished to have the blanks filled up with the names of the Lord Chancellor, the Chief Justices of the King's Bench and Common Pleas, the two Archbishops and the Speaker of the House of Commons, for the time being. He also wished the princes of the blood to be included, considering them the most natural advisers of her Majesty. He considered it as impossible that a son should be so base as, upon such an awful occasion, to give his mother wrong advice.

Colonel *Phipps* considered the persons named, to be the most proper to be appointed of her Majesty's council. He wished to know upon what principle her Majesty was to be deprived of the choice of her own counsellors; and contended, that, if the House agreed to suffer a Lord Chancellor for the time being, who was to be appointed by the Regent, to be of her Majesty's council, the trust reposed in her would prove a mockery, and they would reduce her Majesty to have no advisers at all, or to have the advisers of the Regent.

The *Chairman* called the attention of the Committee to the question before them, which was, whether John Lord Archbishop of Canterbury should be appointed a counsellor to her Majesty.

Mr. *Pitt* believed that the worthy Alderman was right in the point of order; but as the true object of order was to save time, perhaps it would be most advisable to go into the whole subject at once. He conceived that it would be strictly orderly if the noble lord thought proper, to propose at present to name the Duke of York, and move to postpone the name of the Archbishop of Canterbury, which would bring the whole subject under discussion.

Lord *North* said, he was willing immediately to propose the names of the princes of the blood, and should move that the name of the Archbishop of Canterbury be postponed, in order to move that the Duke of York should be inserted, by which means the Committee could at once enter into the debate on the general formation of the council.

Mr. *Sumner* conceived it improper that the names of their Royal Highnesses should be proposed, without their having been previously consulted, especially as they had objected to their names being inserted in the commission.

Lord *North* said, he should have thought himself very presumptuous if he had proposed the names of their Royal Highnesses without having previously communicated with them on the subject, and learnt that they had no objection to his making the motions that he had proposed.

Mr. *Bouverie* wished to know whether the council were to be responsible for their advice?

Mr. *M. A. Taylor* said, that according to the clause, they were not responsible.

Mr. *Addington* said, they were clearly responsible, being obliged to take an oath of office. If a suspicion existed of their having given her Majesty improper advice, they would be liable to impeachment.

Mr. *Bouverie* objected to the word 'John,' in the motion, and said he would move to have the Archbishop of Canterbury for the time being, appointed.

Mr. *Powys* thought the preliminary debate useful, and asserted the necessity of considering the powers and responsibility of the council, previous to the appointment of those who were to form it. He wished to know in what manner and to what extent the responsibility attached to the council.

Mr. *Pitt* said, that no trust could be created by any means affecting the public interest, or could exist, without public responsibility. Whatever advice the council should give to her Majesty, they would become responsible for; and if the House should have reason to think that by such advice either his Majesty or the constitution was in danger, they had the same power to inquire who were the advisers, and call her Majesty's counsellors to ac-

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count, as they had to call on the officers of government.

The *Attorney General* said, the House might, on any suspicion of ill-advice, address her Majesty to name her advisers. Those persons were always answerable, but particularly in a parliamentary trust, and the House might proceed against them in a parliamentary manner.

Mr. *Bouverie* wished to know, whether the Queen could not act contrary to the opinion of her council; if so, he conceived there could be no responsibility.

Mr. *M. A. Taylor* asserted, that there existed no responsibility in the council, and that if there was any responsibility at all, it rested with the Queen; for the law said, that the King but not the Queen, could do no wrong.

Mr. *Anstruther* contended, that no trust could be abused, without responsibility in the persons so abusing their trust; and it was thence evident, that there could be no parliamentary trust without responsibility being attached to it. His objection did lie on that account against the, clause but against the power given to the Queen of acting without her council, in which case no responsibility could attach.

Mr. *Burke* said, that certainly in the character of a subject, and still more particularly as upon the present occasion, she became invested with an important trust, the Queen was responsible. He agreed that no trust could be given without responsibility; in the present instance, however, the principle was recognized and violated: for, though a responsibility was avowed, there were no traces by which that responsibility was to be found. In the clauses appointing the Prince to the office of regent, the greatest was by oath; but in the Queen's trust there was no oath, nor any trace of a trust; and though meant to stand apparently and avowedly as a trust, it was not guarded as if it were really so. This therefore was like what Macbeth said of the witches,

"They keep the word of promise to the ear,
"And break it to the hope."

It had been urged, that the reason for not proposing the princes of the blood was out of respect to them; a respect which was a perpetual disqualification, like the respect of the Epicureans for their gods. That respect was to put the princes of the blood out of the commonwealth, because they were the first persons in it. In the Regency Bill of George 2, was to be found the duke of Cumberland, and yet, had the modern doctrine then prevailed, instead of suffering the duke to go and obtain a glorious victory over the rebels, the language would have been "do not let him go, because he may be tried by a court-martial for absence from duty, or some other criminal neglect." Mr. Burke mentioned other instances of princes of the blood having been entrusted with situations of the greatest responsibility, and of the present princes holding offices of trust and responsibility; and he ridiculed the idea of any disrespect being offered in putting them into such situations; on the contrary, he considered it as an additional insult to the royal family, and as a gross disrespect to the King, that it was attempted to prevent the princes of the blood from being of the Queen's council. He contended that the Bill was not calculated to show respect to his Majesty, but to manifest an interested regard for the household in its authors, and a determined effort for the support of a faction. The framers of it had first proceeded to a violation of precedents, next to a violation of law, then to a violation of the constitution, and now they had arrived to a climax of violence: a violation of the law of nature. This reminded him of a line of Pope, which deprecated the clause, as calculated, to break the bonds of domestic union, to raise the servants above their masters, who were shut out and excommunicated, and to sow dissentions in the bosom of the royal family.

Mr. *Powys* said, that having by a distinct clause attached responsibility to the Prince of Wales, they ought to attach it to the guardians of the King's person. He reprobated the nomination of the whole eight, as constituting a garbled, strange, and inconsistent monster, part being named as private characters, and part as official ones. Those who occupied the offices for the time being were the proper persons to be of her Majesty's council.

The question was then put upon the amendment, that the word 'John,' be omitted, which being negatived, the original motion was carried without a division. Mr. Pitt next moved, "That Edward lord Thurlow be another of her Majesty's council."

Lord *North* suggested the propriety of moving the names of the princes before the question on lord Thurlow's name.

Mr. *Pitt* objected to postponing the Lord Chancellor's name.

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Lord *North* rose again for the purpose of moving the name of Edward lord Thurlow to be postponed, that they might at once go into the debate on the propriety of inserting the names of the princes of the blood. He wished to know why all that were proposed to be of the council were not proposed in virtue of their offices, and not by name? He objected to the naming of the Lord Chancellor by name after the Archbishop of Canterbury. The Lord Chancellor was next in rank, but not Edward lord Thurlow. Viscount Weymouth, the earl of Salisbury, and the dukes of Montague and Chandos being each of them of higher rank. The determination to exclude any person of the Regent's appointment from attending in the Queen's council, would create jealousies and suspicions, that all was not fair that was carrying on, which surmise would be prevented by introducing the princes of the blood to the council.

Mr. *Dundas* said, that the duty which the House were on the point of discharging, was at once delicate and important. While their sovereign was labouring under a critical disease, they were to place around the queen, counsellors to advise her in the discharge of the trust which the legislature was about to impose on her. In providing for the care of the King's person, they should do it so as to satisfy the nation at large. The question, whether Edward lord Thurlow should be of the Queen's council, he should vote for, because in so doing he consulted the safety of the King and the peace of the Queen. If they agreed to appoint him by virtue of his office, he might not be of her Majesty's council two hours; he might be removed from his office, and any man wearing a black gown in Westminster-hall, placed in his situation. Considering the ability, integrity, and manly spirit of the Lord Chancellor, and considering that he had in so eminent a degree possessed the confidence of his sovereign, and that he now possessed the confidence of the people, he should vote for the motion.

The question for postponing being put, it was negatived, and the motion for appointing Edward lord Thurlow, was agreed to. The other names, those of the Archbishop of York, Lloyd lord Kenyon, and of the Master of the Horse, Lord Chamberlain, and Lord Steward, were severally put and agreed to. As soon as Mr. Pitt had moved the eight names regularly, and the Committee had decided that those eight names should stand as the names of the eight members of the council, lord North moved, "That his Royal Highness the duke of York and Albany be a member of the said council."

Mr. *Pitt* said, that he should state his reasons, why he thought it necessary to give his vote against the motion. Possibly what he had to offer, might be placed in the catalogue of disrespect, and be added to the other imputations so unjustly charged upon him, of meaning to manifest a want of due attention and regard to the younger branches of the Royal Family. Be that as it might, so long as he was conscious of acting upon no other principle, than an anxious desire to discharge his duty faithfully in a moment of great difficulty, he should firmly adhere to the rule of conduct that he had laid down for himself, perfectly regardless of any consequences. The first matter to be considered was, the nature of the council in question, which was to be a council of advice, and a council of advice only. It had been said to be a trust, but the trust was, to advise her Majesty in the care of his Majesty's person. The noble lord had proposed, that the duke of York, the second son of the King, should be a member of that council. Perhaps, the reason assigned by a noble marquis was of itself sufficient to show, that the appointment of his Royal Highness to be a member of that council, would be both unnecessary and improper. Most certainly, there could be no occasion to put those princes of the blood, who were of course the natural advisers of her Majesty, into a responsible situation, and make those members of a council, who were to advise the Queen, when called on so to do, and were to answer for that advice. In the common transactions of the care of his Majesty's person, her Majesty would naturally consult the persons of her own family: but, when an act was to be done of a much more important nature, she would then call upon her council, who ought to be persons not interested in the advice they might give, farther than as their general wishes for the restoration of his Majesty's health, which they must feel in common with the rest of his Majesty's subjects, should make them otherwise, and who would naturally be the best able to advise her Majesty. Whatever, therefore, they might do in form, it was clear, that in the appointment of the trust which was given, the authority to act upon should

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be in a single person. Another reason why it would not be right to name the duke of York, was grounded on those general principles upon which it had been deemed improper to let the Prince of Wales have any concern in the care of his Majesty's person. It was the situation and not the character of the Prince, that precluded him from being named to share in the office of the council of her Majesty. He who was to be regent ought not to have any concern with the care of the King, because, being next in succession, he was not fit to interfere with that concern. If, therefore, the Prince of Wales was unfit for such an interference, respect to him made it necessary to extend the same general principles to the duke of York, and the rest of the royal family.

Lord *Beauchamp* thought the princes of the blood the properest persons to advise her Majesty, concerning a trust, in the due execution of which they were so deeply interested. It behoved the Committee to give a preference to those, who, in point of situation, of duty, and affection, were the fittest persons to assist the Queen with their advice. The two Houses of Parliament had taken upon themselves to pronounce his Majesty's incapacity, after a proper examination of his physicians; but the bill took the more important proceeding, to restore his Majesty to his government, out of their hands, and intended to substitute that council, on this very delicate question, and that not only when parliament was not sitting, but even during the sitting of parliament. The adoption of the other branches of the royal family, would, he should imagine, be most pleasing to her Majesty, and equally necessary in a public light. He reminded the Committee, that they were to propose a council, such as the parliament and the people of Ireland would approve; because, it was to be considered, that the same prince who sat upon the throne of Great Britain, must sit upon that of Ireland. They ought, therefore, to take the same means as the people of Ireland would be willing to adopt; and how was he or any person sure that the people of Ireland would leave the advising of her Majesty, in respect to her care of the King's person, to a council, which they knew nothing of, and which was different from that provided in all other regency bills? The insertion of the other branches of the royal family would not make the council too numerous. In every former regency bill, some of the royal family were to be included; in the present, they were studiously excluded, and that without any sufficient reason.

Lord *North* said, he would state a few reasons why he conceived the Committee ought to adopt the motion. The right hon. gentleman had alluded to the speech of a noble marquis, and had contended, that it remained unanswered. The noble marquis had said, the Queen might, if she pleased, call for the counsel of the princes, and, therefore there was no occasion that they should be constituted members of the council. The Queen might, if she pleased, call for the advice of any one, or all of the eight persons, named for her council, just as much as she could call for it in their capacity of counsellors. The privy council, was in a great measure a council of advice. The princes of the blood were members of the privy council, and when they attended a privy council, called by the King, they attended a council of advice. The council to be appointed under the authority of the Bill, was, not long since, stated to be a council of advice, but afterwards, to be something more, because they were to be partakers of the act of recalling his Majesty to his government. The right hon. gentleman had said, that they should not trust the person of the King to the successor of the Crown. That principle went too far; it was a barbarous principle, that excluded every one of the royal family from those councils and that advice. He contended, that there was not any rule that could support excluding the successor from a council, to consider what was best for the care of the health and the preservation of his Majesty. The principle laid down, therefore, was a barbarous principle. He animadverted on the rule of conduct that the Bill prescribed for the Queen and the council, on the King's recovery. They were immediately to send an account of it to the Lord Mayor and cause it to be printed in the London gazette. The public, he was sure, would like the Queen's certificate of the King's recovery better, if some of the princes of the blood were in the council. He put the case of her Majesty's death. Should the Queen die his Majesty would be in the hands of not one of his own blood; a circumstance, in his opinion, extremely material to be considered.

Lord *Maitland* said, that there was not, from the northernmost to the southernmost part of the island one man who could

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urge a reasonable objection against his noble friend's motion. The right hon. gentleman had said, that he supposed that the side of the House on which he stood, would mention his conduct in the catalogue of disrespects imputed to him. He would not notice it as a disrespect, but as an insult to his Majesty, to the Queen, and to the Prince of Wales. Was it to be believed, that the Queen chose rather to advise with the menial servants of his Majesty, as the right hon. gentleman had stated them to be, than consult with his relations? Sure he was, that when his Majesty recovered, he would look with pleasure to the resolution of that House, which made the Prince of Wales one of his counsellors. He spoke of the comfort every man felt in being advised by his own relations. He put the case to Mr. Pitt, who had, he said, so plentifully provided for his relations. When he looked to the Board of Treasury, when he looked to the Board of Admiralty, when he looked to the Chair of that House, he saw every proof of——

Sir *James Johnstone* rose suddenly, and said, he would not suffer the Speaker to be abused.

Lord *Maitland* said, the right hon. gentleman would not, he was sure, consider it as an inclination in him to abuse the Speaker in what he had said; and therefore he would pursue the thread of his argument. If he thought the Prince of Wales was wicked enough to wish to retain the government of the country when the King grew well, he would be the last man living to suggest his being of the council. The right hon. gentleman, when he could not produce any argument, had invented the device of calling it a question of feeling; if, therefore, the question was a question of that nature, he did not doubt but that it would revolt the feelings of all public men, when they came to hear that the Prince of Wales had been treated with so much marked insult. The right hon gentleman had said, that lord Thurlow was a fit person to be a member of the council, because the learned lord was high in his Majesty's confidence. Had not his Majesty shown as much confidence in the duke of York? Would any man so far libel her Majesty, as to suppose that she would not feel great comfort in the advice of her own son? There could exist but one opinion in the country, and that was, that the royal princes should be members of the council.

Mr. *Addington* much doubted, if there could be but one opinion in the country, whether that opinion was as the noble lord had stated it; certain he was, that there were sufficient reasons why that ought not to be the opinion of the House. The noble lord in the blue ribbon had declared, that he conceived the principle of excluding the successor to the Crown from the council to advise her Majesty, was a principle carried to the height of barbarity. It was nevertheless, the principle which governed the practice of the first court of equity in this kingdom, in all cases concerning persons labouring under the mental malady. The rule was, never to appoint the heir apparent, nor even the heir presumptive, to have the care of the person indisposed, but to take the individual least interested in the death of that person. The Queen stood precisely in this predicament. Her Majesty, for a thousand reasons, was the most proper to have the care of the King's person, and the Prince of Wales was, for a variety of very different reasons, unfit to take any share in that concern. The noble lord had observed, that in case of her Majesty's death, the council would have the care of the King's person. If the duke of York, therefore, was to be of the council and the Prince of Wales were to die, the duke of York standing then as heir presumptive of the Crown, would have the custody of the King's person, which would be highly improper. When the death of the Queen should happen, the Bill had provided for the circumstance. The only case in which the Queen ought to act under the Bill by herself, was in regard to the resumption clause, and the Bill especially defined what was to be the line of proceeding to be adopted. Mr. Addington assigned, as an additional reason, why the princes of the blood ought not to be of the council, that their over anxious wishes for his Majesty's recovery might induce them to pronounce that his Majesty was in a state of sanity, before his restoration to health was complete. He solemnly declared, that, in regard to the measures lately pursued, he had acted from principle; he had maturely considered every part of the system; he had voted upon conviction in consequence, and he felt a pride and a pleasure in having given his feeble support to his right hon. friend.

Mr. *Burke* said, that the Committee had now got two principles laid down,

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and those as opposite to each other as light to darkness. The hon. gentleman who had spoken last had said, that the duke of York ought not to be of the council, lest his too great zeal and filial affection should prompt him to pronounce the King well previously to the re-establishment of his health; and the Chancellor of the Exchequer had said, the presumption was, that from the princes of the blood being interested, his Majesty might not be restored to his government at the time of his recovery. Mr. Burke reasoned upon these contrasted disqualifications, and denied that they could both be founded. He said that gentlemen were fond of resorting to the dark and barbarous time of Henry 6; a period before our constitution was formed. He would refer them to more modern times, to the Regency Bill of the fifth of the present King; a bill brought into parliament at the instance of the King himself. In that bill, the King was enabled to nominate a regent, but disabled from naming any but his successor. Mr. Burke laid great stress on the wording of that statute, and asked whether it was right to exclude all the sons of a father from having any share in the custody of his person? He was himself a father, and the noble lord was likewise a father. He appealed to the noble lord, and to all fathers, how they would feel, on recovering from a dangerous and severe malady, if they found that their sons had been debarred all share of the custody of their persons. For his part, he should regard that man as a murderer, who had so excluded his son. He then exclaimed against the times; they were, he said, ignorant times, not barbarous, because he really thought there was enough of urbanity and softness of manners; but ignorant, because mankind in general now drew all their information from newspapers and magazines. The learning of this day was bad learning, which was the worst sort of ignorance. The right hon. gentleman had said, "Let us have members of the church, and guardians of the laws, of the council, and officers of the household." He knew not one of the persons in office, but he knew that the Queen might change the household the next day, and then new persons would be her advisers.

The Committee divdied: Yeas, 130; Noes, 177. Prince William Henry was then proposed, and the Committee divided again: Yeas, 128; Noes, 176. Prince Edward was negatived without a division. The Committee divided on the duke of Gloucester's name: Yeas, 129; Noes, 178. The duke of Cumberland was negatived without a division. Mr. Dempster then proposed the Speaker of the House of Commons for the time being.

Mr. *Pitt* said, that on every account, from friendship, affection, and consanguinity, he might well be supposed to be partial to the present Speaker of that House; but he could not agree that he ought to be a member of the Queen's council. The four that had been first voted members were the heads of the church and the law; the four last were the principal officers of his Majesty's household; whereas the Speaker of that House was of neither description. The question was put, and negatived. The Lord Mayor of London for the time being was next proposed, and negatived.

Feb. 11. The House being again in a Committee on the Regency Bill, Mr. Alderman Watson in the chair, the 26th clause was read, providing for his Majesty's resumption of his government, which is as follows;

"And be it further enacted by the authority aforesaid, that when it shall appear to her Majesty the Queen, and to of the council appointed by this Act to assist her Majesty in the execution of the trust committed to her Majesty by this Act, that his Majesty is restored to such a state of health as to be capable of resuming the personal exercise of the royal authority, it shall and may be lawful for her said Majesty, by the advice of of her said council, to notify the same by an instrument under her Majesty's hand, and signed also by the said of her Majesty's said council, and addressed to the Lord President of his Majesty's most hon. privy council for the time being, or, in his absence, to one of his Majesty's principle secretaries of state; and the said Lord President, or secretary of state, shall and, is hereby required on the receipt thereof, to communicate the same to the said Regent, and to summon forthwith a privy council; and the members of he Majesty's most honourable privy council are hereby required to assemble in consequence of such summons; and the said Lord president, or, in his absence, the said secretary of state, in presence of any or more privy counsellors so assembled, to cause

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the said instrument to be entered on the books of the said privy council, and immediately thereafter to send a copy of such instrument to the lord mayor of London, and likewise to cause the same to be printed in the London gazette."

Mr. *Pitt* rose. He said, he meant to propose that the first blank should be filled up with the word "five." In reviewing this clause, it was necessary to consider the subsequent ones, they being all connected together. The general principle of the clauses he need not argue, as the provisions for his Majesty's resumption of his government, arose out of every principle of regard to the constitution, the law of the land, the allegiance they all owed to their king, and out of the resolutions themselves, which were professedly calculated for the interval of his Majesty's indisposition alone. The general principle felt by the public was, that the whole of this measure was calculated only for the duration of that necessity; in policy also they were bound to take measures that the Regency should continue no longer than the happy moment of his Majesty's capability to resume his right. The point they were then considering was of the greatest importance. It was his Majesty's undoubted right to resume the personal exercise of the royal authority as soon as he was capable of it. They were providing for that right, and in so doing, they ought to provide according to the constitution, that they should not be thought to be trenching on royalty; and if they went any farther than the necessity of the case, they would be usurping to themselves a right of transferring the King's undoubted right to another. As long as there existed the necessity of his Majesty's remaining in the care provided for the royal person, they could not look for one royal act from him; therefore, the first preliminary was, that previous to his Majesty's resumption of the royal authority, the Queen and her council must notify that the infirmity no longer subsisted. And when the Queen and her council notified that the infirmity no longer existed, his Majesty would have a clear indisputable right to resume his government. Upon such notification of the capacity of his Majesty, he would not be able to do any act of royalty, but through some ostensible channel. When his Majesty should no longer be infirm, he must act, as a King, through some ostensible channel; it was then the duty of that House to provide for his Majesty that ostensible and fit channel, through which he would have to communicate his act to the parliament and the people. In providing such channel, they were to look to ostensible persons, to the privy council: those who might on his Majesty's recovery be in executive departments, would by no means be fit persons to consider his Majesty's capability of returning to his government. The mode, therefore, proposed in the next clause was, that those who should be at the time, or shall have been, of his Majesty's privy council, and who should be selected by his Majesty, to any number not less than nine, should be the channel of communication, and if six of such privy council should agree with the representation of the Queen and her council, that his Majesty's infirmity no longer existed, and should have countersigned the proclamation, they would be the channel through which his Majesty would have to communicate to the public his happy recovery. The principles he went upon were, that while his Majesty's infirmity continued, he could not do one royal act; that when it ceased, his Majesty would have an indisputable right to assume the reins of government; that such recovery must be communicated through some ostensible channel; that those who were in executive departments at the time would be unfit persons; and that those who were, and had been of his Majesty's privy council, would be the proper channel through which his Majesty's recovery was to be communicated to the country, for which they would be responsible, and, upon such notification, the regency would immediately cease. There could not a doubt exist, under such guards, that his Majesty would prematurely be restored to his government; the Queen and her council were to make such notification, to the president of the council, and on his Majesty's requisition, under his sign manual, a privy council were to assemble, and by that responsible channel was his Majesty's proclamation to be countersigned, and the parliament were to meet immediately. He said, he could not suppose it possible that in consequence of such care, a resumption would take place under doubtful or equivocal circumstances; it would be a resumption parliament would have to meet and contemplate with joy; a resumption wished for by a people whose ardent hopes were for his Majesty's speedy recovery.

Mr. *Powys* said, that whilst he thanked

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the right hon. gentleman for his full explanation of the principles of his system, he must beg leave to condemn it as novel, incongruous, and unconstitutional. He declared he wished to introduce specific amendments of a quite contrary nature to those proposed, to controvert such pernicious propositions. He trusted that the House would resist them in toto. He wished to support the honour, the dignity, and the loyalty of the two Houses of Parliament, which were grossly insulted by an attempt made to supersede the rights of parliament, and put them into the hands of a hacknied and garbled junto. He said he had viewed none of the clauses with greater surprise than this. The right hon. gentleman had declared that his Majesty, while his incapacity exists, could do no one royal act: but the clause provided for the exercise of such act, when his Majesty should be supposed not to be incapable. The right hon. gentleman had stated the great certainty of the responsibility of the Queen's council; but how were they responsible? They were to be made openly responsible for that act, of which they could not distinguish the motives. It was stated in the clause, that the moment it was made appear to the Queen, that his Majesty was recovered, she was to do so and so; but how was it to be made appear? The right hon. gentleman had shown great suspicion in this case, not of one, but of all the three branches of the legislature. Was there, in fact, a suspicion of any one branch of the legislature? If so, there should be a suspicion of the others. But he found there was an intention to treat the legislature, as the right hon. gentleman had treated that House. Parliament had not gone on supposition to the point of his Majesty's incapacity, but had proceeded in the most solemn manner to the investigation of that fact, and in the same manner, he contended, they ought to proceed to the important point of his Majesty's recovery. When his Majesty should awake from that slumber in which he then lay, and should inquire into the transactions which had passed, and ask by what authority he had been superseded in the exercise of his own functions, he would be told, this was the act of your faithful Commons. He would hear, that by them he had been condemned to supercession, by them he had been subjected to restriction. When his Majesty should ask, have my sons, have my brothers been near me? The answer would be, no, Sire; parliament has taken care that your sons and brothers should have nothing to do with you. When he should ask, have my other great officers had the care of me? The answer must be, no, Sire; they have had nothing to do with you. You owe it to four persons, John Moore, commonly called Lord Archbishop of Canterbury: William Markham, commonly called Lord Archbishop of York: Edward lord Thurlow, and Lloyd, lord Kenyon. Did not this conduct tend to poison the royal mind, and make his Majesty think that those four individuals were the pillars of his throne? Within these two years, the House had seen a variety of extraordinary things. Gentlemen had seen the executive power used to degrade and disgrace the House; they had seen the Lords and Commons made the instruments of mutilating the executive power: and that House was now called upon to be the instrument of its own humiliation, and to declare itself not fit to be trusted with the re-instatement of their sovereign. He hoped gentlemen were not so lost to a sense of their own honour, as to subscribe to such a disgraceful doctrine. He meant to propose several amendments, and to support the amendment of an hon. friend of his behind him, which he had seen and approved. For the present, he entered his protest against the whole system, as militating, to a violent excess, against the purest and most sacred principles of the constitution.

Mr. *Vyner* supported the arguments of Mr. Powys.

Sir *Richard Sutton* was astonished, that those who some time since contended against the right of parliament to lay any restrictions on the Regent, should now come forward to restrict their lawful sovereign. He said, his Majesty's claim was irresistible; the instant he recovered so as to be able to resume his government, their authority fell to the ground, and there was an end to the Regency. He condemned the idea of the two Houses going into an examination of the capacity of his Majesty, upon his recovery, which he considered as highly injurious to his Majesty's rights; and argued that it bore no parallel with the necessity of a parliamentary examination to prove the incapacity; the King not meeting his parliament in person, or by commission, and a stop thence existing to all executive acts, it was necessary that the infirmity should be proved, to show the right of the two

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Houses to provide for the exercise of the royal authority; but, when his Majesty was restored, should they have an examination in parliament, to know whether they would admit him to exercise his undoubted right? On his majesty's recovery, he would recover his right, and parliament would have no power to consider of means for the exercise of the executive authority.

Mr. *Francis* said, that among all the novelties which had occurred in the course of this business, some of them alarming, and all of them surprising, nothing had astonished him more, than that he should now, he believed for the first time, not have been able to comprehend the meaning of the Chancellor of the Exchequer. Although he did not often assent to the opinions, and was seldom convinced by the arguments, of that right hon. gentleman, he generally, if not always, perfectly understood him; for, few men, he confessed, had a clearer way of stating their meaning upon any subject, or making their ideas intelligible to those who heard them: but, on the present occasion, though he had listened to him with the utmost attention, he was utterly unable to conceive what he meant. Although the question before the Committee regarded the mode of establishing, by sufficent evidence, the truth of a most important fact, the certainty of his Majesty's recovery, the right hon. gentleman had not said one word about either fact or evidence, but had rung the changes a dozen times over, upon the words channel, and the channel of information, without any apparent application to the subject, and in a way which conveyed no distinct idea whatever to his mind. Mr. Francis said he had risen to state a specific question to the gentlemen on the other side, to which he hoped some of them would condescend to give a direct answer. To every man who had had an opportunity of observing persons afflicted with a disorder of the mind, it was a truth which could admit of no dispute, that to ascertain the fact of the existence of the disorder was one of the easiest operations, on which the human judgment or observation could be employed; whereas to ascertain the fact of a real recovery, was one of the most difficult. A view of the person, or a conversation of a few minutes, might be sufficient to put the first out of all doubt; whereas, to ascertain the second, would require long, minute, and attentive observation. On this unquestionable truth, he founded his question; which was "Since you have admitted that the interposition and cognizance of the two Houses of Parliament was necessary to ascertain and establish the fact of the King's incapacity to peform an act of no difficulty whatever, on what rational ground of distinction do you now assert, that the interposition and cognizance of the same judgment is not necessary to establish and ascertain the fact of his recovery, an operation in which, of all others, our observation, and even our experience, is most liable to be dedeceived? And if you thought that the authority of parliament was necessary to warrant the first fact to the satisfaction of the whole kingdom, why do you think it unnecessary to warrant the second fact, by the same authority? Why do you refer the question to the decision of an inferior tribunal?"

Mr. *Marsham* objected to that part of the clause, enabling his Majesty to call in what privy counsellors he thought proper to decide upon his ability to resume the government. He had two clauses which he meant to submit to the House, instead of the one proposed by the right hon. gentleman. They were to provide, that on the notification by the Queen of his Majesty's recovery, parliament should, if sitting, in not less than four days, nor more than six, after such notification, order his Majesty's physicians to attend at the bar, and to have this single question put to each of them: Whether his Majesty was capable of resuming the reins of government? If the answers were given in the affirmative, the Houses should go up with an address to his Majesty, praying him to resume the reins of government. This mode, he conceived would be far more satisfactory to the people of England than the one proposed.

Colonel *Phipps* urged the propriety of the examination which had taken place in the first instance, to prove the malady, and reprobated the indecency of taking a parliamentary examination of his Majesty upon his recovery. He asserted the right of the King to resume his government the moment his infirmity ceased to exist. He wished the resumption to be brought forward in the most easy, and at the same time, in the most responsible manner, and for that reason he objected to the interference of parliament, who, not being a responsible body, were improper so to act. He wished them to

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keep within their own bounds, and look after the responsibility of others; he wished them not to drag their sovereign to their bar, to be examined as to his recovery, but to be convinced by those who had seen the progress of his recovery. He saw the King was mending; Dr. Warren, he observed, had signed his name that his Majesty was better. Dr. Warren and the rest of the physicians, and not the House, would see the progress of his recovery. He wished them not to take upon themselves the part of a Republic, and when they thought proper, present a crown, but to act as a parliament belonging to a free constitution, which presided over it, and for the principles of which they were accountable.

Mr. *Sheridan* said, that no person disputed the indubitable right of the King to resume his government when recovered. The real question was, the fact of his Majesty being restored and capable of resuming the government and the manner in which that should be ascertained, and the resumption of his powers made. After passing that bill, the real question would stand, that his Majesty had no right, though his Majesty would have an unquestionable right, on his recovery. But, what were the proper means to ascertain that recovery? By the mode proposed for his Majesty's resumption of his government, it was to be under certain terms and conditions. Who, then, were to be the judges of those conditions; who so proper as the two Houses of Parliament? No person had doubted the propriety of their going into an examination, to prove the incapacity; it was their duty to do so, and it was equally their duty to take care to provide against any act of his Majesty, until his capability was known. By the present clause, they were about to delegate the trust which belonged to themselves, to most suspicious hands; to hands by no means proved to be fitter for the trust than the parliament; they were about to fall into the error, which the principle of the bill was to guard against that of suffering the Regent to have the power over the person of the King in many cases, but, in particular, on the death of the Queen; they were putting themselves into such a situation, that the first notice they might have of his Majesty's recovery might be by a dissolution of the parliament; the second step his Majesty might take, might be, under his sign manual, to appoint a new regency, by Lords Justices, or otherwise; and thus, when parliament should again assemble, they might meet, not his Majesty, who might be relapsed, but his commission without ever having any proof laid before them, of the re-establishment of his health.

Mr. *Dundas* acknowledged, that the hon. gentleman had stated the real question, and argued very fairly, though he had contradicted by his practice what he had declared—that it was necessary to examine into the incapacity of his Majesty, since, out of that incapacity arose their right to delegate the royal authority. On his Majesty's recovery they would have no such right; the right of exercising the royal authority attaching itself to the King, in the moment of his recovery. He agreed with an hon. gentleman, that, on the happy day of his Majesty's recovery, it would become the House to congratulate his Majesty, on his resumption of the government; but, he could not agree, that his Majesty should be retarded from his right of governing, until they had addressed him to take the reins of government. The proposition of his right hon. friend was, to enable his Majesty to come down and meet his parliament, on his recovery, in his own right as sovereign. The other proposition was, to humble him to the character of a supplicant for his throne, seeing his authority exercised by another, in the person of his Regent. The system proposed by his right hon. friend went as near as possible to the straight line of the constitution, guarding the safe return of his Majesty to his throne; and at the same time the right to assume his government was so carefully hemmed in by every necessary provision and check, as to render it impossible that a resumption should take place, in any way injurious to the country. Gentlemen might talk as they chose, about the council appointed for her Majesty; but, he would ask them individually, whether, in their own consciences they believed that those great and respectable persons would state his Majesty's recovery, in a public record, when they were convinced that such a recovery did not exist? He was convinced by his own feelings, what the opinion of every impartial man must be, and what would be the opinion entertained by the public at large; it would be, that they were not capable of stating on record, what they were not convinced to be true. The clause gave that council the power of

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being in the daily observation of every particular of recovery; they had the power of examining the physicians, and every opportunity of being competent judges of his Majesty's situation. It was true, that when her Majesty thought the King recovered, she was to notify that happy circumstance; but, she could not do it alone; the House had placed on her Majesty a check of eight counsellors for advice, without a majority of whom concurring in opinion with her Majesty, she could not notify such recovery; and such a check was, in his opinion, a sufficient surety to the House and the country, that no premature resumption would take place. Her Majesty's counsellors were men of strong judgment, and of great loyalty and attachment to their Sovereign, and would not, by premature judgment, subject her Majesty and the people to the pangs of having their King brought forward in a state incompetent to the exercise of his royal functions. The House would act wisely in adopting the present mode proposed for his Majesty's return to his government; it was not left to his Majesty's own judgment to give the notification of his recovery, but to the Queen and the majority of her council; and before the recovery could be declared to the empire, the privy council must concur with her Majesty, and countersign the proclamation. There was an additional check even to these, and which he did not consider the least; it was the opportunity given to his Majesty to exercise his philosophy and his religion, in revolving in his mind his situation before he gave his proclamation, and came forth to his afflicted people, saying, "I am your King again." It had been asked, what responsibility attached to the advisers of her Majesty, or to those who countersigned the proclamation? He answered, the same responsibility that attached to any privy counsellor for advice given to the monarch. Would any man of such a description as those eight persons who formed her Majesty's council choose lightly or wantonly to take such a trust? or was it probable that they would abuse it? If they betrayed the trust reposed in them by parliament, parliament would act consistently in punishing them; it was, however, unlikely that such a trust should be violated, when the fact of his Majesty's recovery was to be given under the sanction of the Queen, the Queen's council, of his Majesty, and, lastly, of the privy council. An hon. gentleman had contended, that parliament would be degraded, and that gentlemen had seen that House degraded and disgraced. He agreed, that it had been degraded; not by the executive power, but by themselves; insulted they were, when persons made claims in which they were not supported by those who sent them to parliament, by the people of England, to address the throne to protect them from their violence; and the wise measure of that day, which returned them to their constituents, was happily felt by the return of the present parliament, whose measures had been admired and applauded throughout the country. Mr. Dundas charged Mr. Powys with having acted in an unmanly way, by sheltering himself behind the previous question, when the question of right was discussed. He added, that he never would agree to any measure that might cast obstacles in the way of his Majesty's resuming his government. Was it to be borne, that when his Majesty was recovered, his Regent should come down to the parliament as king, make a speech as king, while their sovereign was to be a spectator of the pomp and show, from the windows of Buckingham-house? No; he would never agree to such conduct, and, believed the House and the country would revolt at it. He considered the plain question before the House to be, whether the mode proposed was sufficient to establish the fact of his Majesty's recovery, whenever that fortunate event should occur? The fact so ascertained, would be sufficient to enable the privy council to present the King to the ardent expectations of his people, and if they did it prematurely, they were punishable by parliament. Those, therefore, who agreed with him in thinking the powers sufficient to ascertain the fact, would not, he was convinced, submit to have any other mode adopted, which might retard his Majesty's return to his government, and afflict him by the sight of another person assembling his parliament, and exercising his privileges and authorities.

Mr. *Powys* confessed, that the right hon. gentleman had argued the matter fairly, and brought the question to the true point, upon which they were at issue. The point, whether his Majesty, on the recovery of his health, should resume his government upon the authority of the parliament, or nine of his privy council. The right hon. gentleman, he avowed, had understood him right, when, by his decla-

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ration that parliament had been degraded and disgraced, he understood him to allude to the dissolution of the last parliament, after the promise given to the House and the public, in the name of the right hon. gentleman, that he would not advise his Majesty to dissolve the parliament. If he had not understood the right hon. gentleman to whose declaration he alluded, he was sorry for it; he did not wish wilfully to misunderstand him, but, if he had, he believed many misunderstood him in the same way as he did at the time. The right hon. gentleman who spoke last had stated, that he took an unmanly part, on a former day, in shrinking from the discussion of the question of right. He did not shrink from it, but thought the discussion of the right unnecessary, and, after giving his reasons for being of that opinion, he deprecated the discussion. With regard to the subsequent proceedings upon the resolutions, he had questioned the right of parliament to parcel out the power of the Crown, and he had stated doctrines which he had found in books, which he conceived to be books of undeniable authority, and which proved that such a division of the royal prerogatives, and such a separation of the regal power from the kingly office, were neither legal nor constitutional. The right hon. gentleman had said, ought his Majesty to supplicate parliament, and intreat at their hands a grant of that which it was his undoubted right to exercise, as soon as he was mentally enabled? In answer to that, he would ask the right hon. gentleman, whether his Majesty ought to supplicate nine of his own servants, persons holding places under him, for that which was his undoubted right, because if the nine privy council did not choose to join in the transactions, his Majesty could not resume his authority? The right hon. gentleman had observed, that they were all solicitous for his Majesty's recovery, and his restoration to his government; but, were not privy counsellors equally solicitous, and equally anxious for it? The fact might be so; but it was a proceeding of too serious a nature, to take place under the sanction of any other authority than that of parliament.

Mr. *Bankes* said, that the sort of charge which had been made against him by the hon. gentleman had not been urged that day for the first time. He begged leave, therefore, to say a few words in his own behalf. The hon. gentleman had alluded to a declaration of his, made five years ago. At that time, there had been a violent opposition to his right hon. friend (Mr. Pitt) whose opinion he had uttered on the occasion, and whose commission he had executed faithfully. He had no doubt, but that when he made the declaration, it was his right hon. friend's determination strictly to abide by it. He recollected there were reports of a speedy dissolution of parliament, and the opinion which he had delivered arose from this circumstance; an address was moved to be presented to his Majesty, stating "that several weighty matters and proceedings were under the consideration of parliament, and praying that his Majesty would lay aside the exercise of his undoubted prerogative, and not dissolve the parliament till they had decided upon the weighty matters which were before them." He lamented that Mr. Fox was not now present, because he was sure his candour would induce him to confirm the statement that was given. That right hon. gentleman had objected to the declaration at the time, and, with great fairness, had proposed a more parliamentary mode of proceeding. The right hon. gentleman had then urged, that the declaration of an individual member was not a fit ground for that House to proceed upon, even if it had come from the best authority, meaning, no doubt, the minister, who, at the period alluded to, was not present in the House, and, therefore, he had recommended an address to the King, as a more effectual way of getting an answer. Mr. Bankes descanted on the difference between a declaration which the House had acted upon, and a declaration that had not been acted upon; which latter, he contended, was the case with the declaration that he had made.

Mr. Pitt and Mr. Powys rose together. Mr. Powys, however, sat down, declaring that he would submit to the command of the right hon. gentleman.

Mr. *Pitt* then observed, that the hon. gentleman would do well first to submit to the orders of the House, and next to conform to decency, and not wantonly introduce charges that were malicious and unfounded, respecting matters which had passed in that House five years ago, and which had no relation whatever to the subject of the debate. With regard to the matter itself, he declared, that had not his hon. friend thought it entitled to notice he would not have made the hon. gentleman over the way any answer. There had been

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no engagement made in his name, and through his means; and if any one asserted that there had been, he asserted a fact destitute of foundation.

Mr. *Sheridan* complimented Mr. Dundas, declaring, that with regard to the beginning of his speech, he never had heard any thing more able, more earnest, or more eloquent; but that, towards the end of it, the right hon. gentleman got himself entangled in an argument which destroyed the principle of all his former reasoning. The right hon. gentleman had first doubted whether we had any right to impose restrictions on his Majesty's reassumption of his royal authority, and, he had afterwards said, that the Bill had provided all the necessary checks and restrictions. The right hon. gentleman had said, ought his Majesty to be a supplicant to parliament, for the exercise of those prerogatives which of right belonged to him? He would say, that it would be better for his Majesty to supplicate that House for his Crown, than either his council of eight or his nine privy council. He charged Mr. Dundas with flying to the common-place topics of pitying the King, and saying all he felt for him and his situation. They all, no doubt, felt as they ought to do for his Majesty, but they ought likewise to feel for their country, which was of equal consideration. The right hon. gentleman, disdaining to read the Bill upon which he had been speaking, had made several gross blunders. He had talked of what might happen in case of the Queen's death, whereas the Bill contained an express provision for that circumstance. He had all along understood, that they were not to argue on grounds of personal confidence, and the right hon. gentleman in particular had, a few days since, declared, that arguments of that kind were unmanly and improper; and yet he had resorted to that sort of argument; he had called upon the House to know whether lords Thurlow and Kenyon, and the rest of her Majesty's council, were not fit persons to advise her Majesty? Undoubtedly, they were not persons very likely to betray their trust; but, they all knew that personal confidence was not a fit ground for parliamentary argument. The right hon. gentleman had, the preceding day, declared, that the council was only a council of advice; and yet, that day they had heard him contend that it was a check, and a council of control. Mr. Sheridan bid the Committee recollect on what grounds the Irish parliament proceeded; they took up the circumstance of the King's incapacity, upon the declaration of the English parliament, and proceeded upon a principle of respect to them. He urged the necessity, therefore, of their settling the mode of his Majesty's resumption of his royal authority, in such a manner as the Irish parliament should be willing to adopt.

Mr. *Burke* took notice of Mr. Dundas's speech, declaring a part of it to have been ingenious, a part of it dull, and a part of it replete with invective. The right hon. gentleman had talked of the wisdom of the regulation for the return of the King to the exercise of his royal authority, and his triumphant entry into executive power. It would not, Mr. Burke said, be amiss, if, before they enjoyed the triumph, they showed their wisdom by endeavouring to preserve the empire. The ridiculous petition to which they had just adverted, advised them so to do. A parliament was not to be resorted to in the event of his Majesty's resumption of his power; and he desired to know whether they had asserted the competency of parliament, on purpose to degrade and vilify it? The right hon. gentleman thought, that to depose his Majesty's government, it was necessary to make an examination of physicians before that House; but to give it to him, it was not necessary for that House to have any examination. The right hon. gentleman asked, what had they to say of the characters of the officers of the household? He had nothing to say of them, but that when they had accepted the trust, they were not fit to hold it. He might adore the duke of Montague, he might worship the earl of Salisbury: he knew them; but he would not say that others, as great as they, would not do in their places. The House had no security at all for the due performance of that important act, which was to pass through the hands of the King's council. The right hon. gentleman had said, would you have the King a supplicant to parliament? Yes, he thought parliament the proper judge of kings, and that it was for their honour that they should be so. When he went to war with foreign powers, he wished the King to be a supplicant to parliament; when he entered into subsidiary treaties, he wished him to be a supplicant; but he did not wish him to be a supplicant to his own menial servants, those who eat his bread and received his

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wages. If an examination of his Majesty's physicians, when his incapacity was declared, were a degradation, why did they make it a necessary proceeding? The right hon. and learned gentleman said, if the King is well, he shall come and claim. Why then did he not? Oh no, he must have restraint, but it should be any restraint but that of parliament. Mr. Burke reasoned on the necessary steps to be taken previous to his Majesty's being suffered to resume his authority; the first thing to be learnt, he said, was, that the sanity should not be doubtful. It would prove shockingly reprehensible to produce the person of a monarch, in such weakness as might render him the tool of a faction, who should make him do what he could not undo. Had they forgotten the case of Charles 6 of France, who delivered all his power over to the hands of a faction which ruined France? Charles 6, previous to his visitation by that dreadful calamity, was as enterprising as any monarch that ever sat on the throne of France, and just before it pleased Heaven to afflict him the French had talked of invading England; but after that period, the English invaded France; we went into the heart of the country, and tore the crown from the brow of its monarch. Mr. Burke advised the perusal of the history of foreign states, a fund of knowledge, infinitely more serviceable than birth-day odes or addresses. The disorder with which the sovereign was afflicted, was, he said, like a vast sea which rolled in, and at a low tide rolled back, and left a bold and barren shore. Mr. Burke said, he had taken pains to make himself master of the subject; he had turned over every book upon it and had visited the dreadful mansions, where those unfortunate beings were confined. At one of them, the capital hospital for such persons, he saw the goodness of the provisions, the cleanliness of the house, the discipline throughout, and the wonderful order; in consequence of which so many persons were governed by a few. An author of great authority, in mentioning the uncertainty of the symptoms of sanity, had declared, that after having been kept a month, (and the rule was, he said, at all the houses he had visited, though anxious to discharge the patients speedily, to keep them a month after their recovery before they turned them out of the house) they would sometimes dread the day of their departure, and relapse on the very last day, and the consequences which had followed, were of the most fatal kind. Mr. Burke read an extract from the volume to which he alluded, which stated, that some of these unfortunate individuals after a supposed recovery, had committed parricides, others had butchered their sons, others had done violence to themselves by hanging, shooting, drowning, throwing themselves out of window, and by a variety of other ways. [When Mr. Burke read the extract, there was a cry of Oh, Oh! and sir Richard Hill called, Order!] Mr. Burke declared, that he wished to preserve the utmost delicacy, but delicacy, though a being of perfect symmetry and order, was only a subsidiary virtue, and ought always to give way to truth, where the case was such, that the truth was infinitely of more consequence than the delicacy. He instanced a variety of cases, where great delicacy was "prima facie" due, and yet it was uniformly abandoned. Among others, all cases of illness in the fair sex, who were, he said, even delicacy itself; and yet there occurred with them a variety of occasions, where delicacy was obliged to be sacrificed; he mentioned child-birth, and especially when the child was the heir of a kingdom; in that case, for the sake of the succession, there was still more disregard to delicacy, than in other instances. He also adverted to the proceedings in the two Houses, upon divorce bills, proceedings in the ecclesiastical courts, trials for rapes and other measures. In Naples, they published every circumstance relative to such maladies as his Majesty laboured under, because the feelings of the world superseded delicacy. Had he not seen London almost burnt to the ground through an idle and over scrupulous regard to delicacy? Mr. Burke observed, that he hoped he had read enough to give the Committee a sense of the danger of an uncertain cure; and argued from the great disasters which had followed in private life, that it was the more necessary to take care that a sane sovereign was put in the possession of government. He drew a picture of the King's supposed return, which he described as most happy, if really cured, but as horrible in the extreme, in its consequences if a sudden relapse took place.

Sir *Richard Hill* said, that he did not rise to call the hon. gentleman to order, but rather to offer an apology for him to the House, as he really thought great allowances ought to be made for him under his high patriotic paroxisms, when

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his zeal was so very furious in defence of the British constitution, that he quite forgot how much he injured his own, by his great warmth and irrascibility, which he assured the right hon. gentleman were exceedingly prejudicial to the animal economy; therefore, though it clearly appeared from his speech, that he had no need either of salts or cream of tartar, yet he was of opinion, that some gentle alteratives and correctives would be very serviceable to the right hon. gentleman, in his present situation. Sir Richard said, he had no intentions of visiting those dreadful mansions which the right hon. member had been speaking of, though he did not desire to curb the right hon. gentleman's curiosity in this respect, nor did he pretend to say how long it might be needful for the right hon. gentleman to stay there. Having said thus much, he should only revert to what he had hinted when he first rose, viz. that as he thought the hon. gentleman's exalted flights called more for indulgence than for reply, he should therefore adopt the advice of good king Hezekiah concerning Rabshakeh,—"answer him not a word."

Sir *Charles Gould* approved of the regulation, as he thought it favourable to the circumstance of his Majesty's being restored to his government on his recovery.

Mr. *Powys* moved, that the physicians be examined by the Queen's council on oath; which was negatived. He also moved an amendment, declaring, that his Majesty's health shall be such as to enable him to resume the personal exercise. This was carried.

Mr. *Sheridan*, after again urging the necessity of parliamentary investigation of the recovery of his Majesty, moved, that the Regency be obliged to communicate to Parliament the notification of the King's recovery.

Upon this motion, after some conversation, the House divided: Yeas, 113; Noes, 181. The Committee then proceeded to fill up the blanks in the remaining clauses, and the bill, having been gone through, the House was resumed, the report was received, and the amendments read, and agreed to.

Feb. 12. The Regency Bill being read a third time,

Mr. *Pulteney* rose to move the clause, of which he had given notice the preceding evening, viz. a clause to limit the duration of that part of the Bill which restrained the power of the Regent in regard to the increase of peerages. In order to explain the principles on which he thought some limitation on that restriction necessary, he proceeded to call the attention of the House to the different degrees of check and controul, which the different branches of the legislature had upon each other; a system wisely provided by the constitution, in order to keep alive that proper jealousy, the constant attention to which, tended so effectually to the preservation of the constitution itself. The Sovereign of the British empire, as head of the three estates, had, he observed, a variety of prerogatives and functions, independent of the two Houses of Parliament, and essentially necessary to the conducting the legislative, as well as the carrying on of the executive government of the country; the two other branches of the legislature in like manner possessed rights, powers, and privileges peculiar to themselves, and equally requisite for the maintenance of their independance, and the security of that independance from the encroachment of either of the other two estates. The Crown stood connected with both Houses of Parliament, in a peculiar manner, and each House possessed powers of counteracting the Crown to a reasonable degree, whenever the Crown should go beyond the constitutional limits of its prerogative. In that House, as they well knew, whenever they thought it necessary so to do, they could control the Crown in many respects, and especially by with-holding the supplies, or refusing to pass the Mutiny Bill; but if any improper use were made of their power, his Majesty might dissolve the Parliament, and send them back to their constituents. On the other hand, should the other House refuse to lend their aid in passing the bills of supply, there was no other means of coercing them, but by creating new peers, which had more than once restored the House to that situation in which it ought to stand. Mr. Pulteney descanted on the great utility and importance of the power of the Crown to make peers. Had not the Crown been able to exercise that power, some important acts would not have passed. And the union with Scotland could not have taken place. However opinions might have differed about the Union at the time, all men who felt for the interest of England and Scotland, had since had abundant reason to extol

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its wise principles, and to rejoice at its beneficial effects. The power of creating peers, so properly lodged in the hands of the Crown for the reward of merit, and the encouragement of virtuous emulation in the service of the country, was a power that had always been exercised sparingly by the princes who had sat upon our throne. Had not this been the case, various abuses might have crept into the conduct of government, corruption would have been openly practised, and it might have happened that the House of Commons would have sunk to such a degree of want of respect and character, that there might not be found in it proper persons to be raised to the dignity of the peerage, and thus the Crown might be deprived of the means of resisting a faction in the House of Peers. Mr. Pulteney said, he had a great opinion of the House of Commons, but he did not therefore wish that the Crown might not have the power of dissolving Parliament. He mentioned the historical fact of the House of Commons, which in the reign of Charles 1, prevailed on that monarch to pass an act, that they should not be subject to dissolution, and declared that he did not believe either the monarch or the members had any idea at the time of the mischievous consequences that followed. As he wished the power of dissolving parliament to remain in the Crown, in like manner he never wished to see powers given to the House of Lords to resist the constitutional conduct of the Crown; they knew not what operation the power of restraining the Regent from creating peers might have on the minds of the House of Lords. He only looked to that clause when the other House might have an interest in opposing the repeal of the Bill. They would now tell them, no doubt, that they did not mean to abuse it, and perhaps they would tell them so truly, according to their present feelings and intentions; but there was no answering for human frailty. Ambitious men entrusted with unlimited power, might grow fonder of it, in proportion to the length of time they possessed it, and at last refuse to part with it at all. Let them recollect the case of the republic of Rome, with regard to the Decemviri, who were magistrates appointed for the purpose of carrying the laws into execution for a year. They were at first the wisest and most able citizens of the republic, and all the executive power was entrusted in their hands for twelve months. By degrees, the time they were chosen for was increased; first, one year was added, and afterwards more, till at last they grew into such importance, and had attained to such an enormous degree of absolute power, that had it not been for the misconduct of one of them, the liberties of their country had been lost for ever. They ought, therefore, to profit by past experience, and to guard against a similar danger to their own country. He would not by any means, advise the trusting so much out of their own hands, as to suffer the restriction on the Regent from making peers to go out of the House in the Bill without some limitation. It was objected, that the Regent might abuse the power of making peers, and make too many; but was that to be put in competition with the lords refusing at some subsequent period to join in a repeal of the Act? There was no sort of proportion between the different degrees of danger to the constitution. On these grounds, therefore, he should, as a rider to the Bill, propose a clause for limiting that part of the Bill which imposed restrictions on the Regent with regard to the power of making peers, and the time he meant to propose for that restriction to cease and determine, was three years: not that he proposed that period under any idea that the Regency ought to continue the exercise of the royal authority under any restrictions, so long as three years; but, because if unfortunately they should be disappointed in their present hopes of his Majesty's recovery, he thought three years the outside of the time that under any circumstances the restrictions ought to continue.

Mr. *Pitt* said, he had listened to the hon. gentleman with that degree of attention, which he was always desirous to pay to every suggestion that came from so respectable a quarter. If he were right in his ideas on the subject of limitations of time, in respect to any of the restrictions imposed on the Regent, the danger the hon. gentleman wished to guard against was more in theory, than likely to be carried into practice. That a majority of the Lords would wish to continue the restrictions, whenever it should be thought by that House proper to revise their proceedings, and alter them, as the circumstances of the case might require, and that limitations ought to be fixed, was a proposition first started on debating the resolution in the committee on the state of

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the nation, and it had been suggested that they ought to fix a permanent time. He had then thought, and he continued to think, that there was no ground for the Lords to retain that power, whenever it should be necessary to repeal it. The whole of the Bill was a temporary measure, and calculated to last only during the continuance of his Majesty's illness. They must, therefore, be at a loss what period of limitation to fix on, since they could not tell the precise period of his Majesty's illness. For this reason, he felt objections to limit the powers of the Regent to any time at all. And another reason was, because if his Majesty's illness should unfortunately continue to any length of time, so that his recovery would become a matter of doubt,—a matter which, thank God, he had every day more and more reason to believe would not be the case,—a new regency would then be to be settled, and that undoubtedly on very different principles. However, as the time taken for the limitation was three years, not as he conceived with any view that the restriction in question, or any other imposed on the Regent, ought under any circumstances to continue so long (since whether they should have the happiness to see his Majesty recover, and be capable of resuming the exercise of his royal authority, or not, the present system of the Regency ought to cease within that period) but with a view to name three years as the extremest time to which, in any possible consideration, any thing like a restriction could be supposed to be proper to extend; therefore in point of theory and of principle he should have no objection to the clause.

Mr. *I. H. Browne* said, that he had originally expressed a desire that the restriction from making peers might have some limitation; yet in the committee he had objected to a limitation that had been proposed, because that limitation was less than two years; and though he had very great hopes that his Majesty's recovery would take place long before that period, yet he thought no limitation for a less period ought to be fixed by the Bill.

Mr. *Powys* said, that the clause seemed to imply, that three years was, in the opinion of the House, the period that the restrictions ought to continue. For his part, he wished not to confine that restriction with regard to the making peers to a limited time, because he thought that no restriction whatever ought to exist. But if there must be restrictions on the Regent, he thought a limitation of three years too long a period; an earlier period than three years would enable parliament to examine and reconsider the whole proceeding. With regard to their declaring, by accepting the clause, that it was the sense of parliament that the restrictions ought to continue for three years, Mr. Powys desired to enter his protest against it.

Sir *James Johnstone* said, that after a peer was once created, he was as independent the first day as he was the last; and therefore, although he suspected almost every body, he did not suspect the House of Peers. He was of opinion, however, that if the restriction had been unlimited, there might, at one time or another, be a combination between the other House and that against the Crown, and therefore he was happy that a period was to be fixed when the restriction should cease.

The clause being read, Mr. Pulteney moved, that the words "three years" be inserted in the blank.

Mr. *Sheridan* said, he was exactly of the same opinion on the subject with his hon. friend, with respect to the probability of the Lords refusing to open the door to their House, if, by passing the bill without any limitation of the duration of the restriction, in regard to the Regent's power to make peerages, they suffered the power to pass out of their hands, and the door of the House of Lords to be once shut. He was surprised at what the right hon. gentleman had said of the idea of the improbability of the Lords ever wishing to continue the power, when they once got it into their possession. The right hon. gentleman seemed to have forgot that they had gone throughout the whole of their proceedings, not on probable dangers, but on possible dangers. That such an idea as the right hon. gentleman had stated was implied by parliament, was not to be tolerated; the right hon. gentleman, and the gentleman behind him, seemed to have adopted a principle that might be extended for seven years as well as three, and therefore not choosing to lend his sanction to the principle, that the executive power ought to continue maimed and crippled by useless and harsh restrictions for three years, he should move to leave out the words "three years," and that the words "one year" be inserted in the blank.

Mr. *Pitt* said, the hon. gentleman who spoke last seemed to have done him more

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justice than the hon. gentleman who spoke near him, because he had expressly stated, that as they could not fix the precise period of the duration of his Majesty's illness, he would agree to three years as a period the most extreme and distant that could be taken, but that if his Majesty should not recover soon, the restrictions ought to cease within the period proposed; and the hon. member who had introduced it, had expressly stated a similar sentiment: how then could it be considered, that adopting the words "three years" to fill up the blank, under the construction that had been laid down, was making parliament declare, that its opinion was that the restrictions ought to last for three years? With regard to the amendment proposed, would not the hon. gentleman, by what he was doing, defeat his own purpose? The hon. gentleman had said, he moved an earlier day, that it might not appear that parliament thought the restrictions ought to continue three years: he should think the hon. gentleman would serve his purpose better by withdrawing his amendment, and letting the original motion be put.

The question was put, and the clause filled up with the words "three years" was agreed to.

Mr. *William Smith* rose to move an amendment in the Uniformity clause. He stated the illiberal, severe, and unjust penalties to which the protestant dissenters, among a variety of descriptions of sects, differing from the established church, were liable by the statute of Charles 2. The chief of these penalties had long been deemed obsolete, but they had never been formally repealed; the protestant dissenters lay, therefore, at the mercy of every informer. He stated some of these penalties and disabilities, one of which was, that a papist should not practice the art of an apothecary in the city of London under a heavy penalty. Surely such a disability ought not to remain on the statute book! He mentioned several others, and at length stated his amendment, the object of which was no more than to prevent any new difficulty being placed by the Regency-bill, in the way of the repeal of the Test-act, if application should be made for such a repeal hereafter.

Lord *Belgrave* seconded the amendment.

The *Master of the Rolls* said it was true that there were, in the statute of Charles 2, many severe penalties and unjust disabilities, several of which had been since repealed by the Act of Toleration in favour of the Protestant Dissenters and he thought there were others remaining that ought to be repealed; but then it ought to be done regularly, directly, and avowedly. At a fit time he should have no objection to assist in framing a proper Bill of Repeal. He stated that King William took an oath, that he would preserve the establishment of the Church of England, and he was called upon by the Church of Scotland to give a security, that their establishment also should not be touched. The whole establishment of the Church was in the Act and therefore he must object to the amendment *in toto*. He dared not to meddle with it.

Mr. *Smith* said, he was willing to alter the wording of the amendment, so as to remove objections. There remained on the Statute-book penalties and provisions, that strongly partook of the spirit of persecution. He stated in particular, the penalties against persons convicted of having spoken in degradation of the Book of Common Prayer, the penalty on the first conviction was 10*l*., and if convicted a third time, the punishment was a forfeiture of goods and chattels, and imprisonment for life.

Mr. *Pitt* professed himself to be a zealous and firm friend to the established Church of England, and stated, that the object of the hon. gentleman lay in a narrow compass. He proceeded to describe it, and to mention the general heads of the Act of Uniformity. He also stated that at the Reformation their ancestors had not quite purged their Liturgies (of which there had been two or three different ones) from the superstition of the Romish Church. The offences created by the different statutes were, he said, indefinite; but the punishment was definite, and to a great extent.

Sir *George Howard* thought the amendment proposed was out of place, and that no alteration of acts of so important a nature ought to be done by a side wind.

Mr. *Martin* thanked the Master of the Rolls, for having promised the Protestant Dissenters his assistance in preparing a Bill to repeal some of the existing penalties and disabilities against them on account of their religious opinions.

Mr. *I. H. Browne* feared the amendment would not do any good whatever: but occasion a clamour among the people,

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who might think they had taken up the subject superficially.

Mr. *Addington* was extremely anxious that the amendment should not be pressed to a division, as it did not come on regularly, and might injure the cause it was intended to serve.

Mr. Smith consented to withdraw his motion.

Mr. Alderman *Newnham* said, it would show a want of spirit in him if he did not oppose the whole Bill, excepting only that part of it which declared, that the Prince of Wales should be Regent. He thought the provisions of the Bill disgraceful to the honour of his Royal Highness. He spoke of the virtues of the Prince, and said, he had been called to account the other day, because he had mentioned an act of his Royal Highness's benevolence; and an hon. and learned gentleman had complained of the ostentatious parade of the Prince's charity, and asked if he had stated the fact with the knowledge of his Royal Highness? The Alderman said, he was at the time mentioning an act of public bounty, not an act of private charity of that kind, where the right hand ought not to know what the left hand did; he had besides used it as an argument against their locking up money from the Prince as they did by that Bill. The Alderman said, the restrictions against making peerages, were limited to too long a time; and the reserving the household was the most absurd thing that could be imagined. For what did they do by it? they gave splendour where it could not be seen, and took it away, where it was necessary to be exhibited. In fact, they gave the King what could not make him rich, and took from the Prince what made him poor indeed. He condemned the resumption clause, and said, he hoped, when his Majesty did come forward to re-assume the exercise of his royal authority, which he heartily wished he might soon do, he would come forward in a manner free from suspicion, and the minds of the people would be cleared.

Mr. Alderman *Watson* gave his explicit approbation to the Bill itself, and to its various clauses, because they were consistent with his conviction, and that of his constituents.

Mr. *Sheridan* moved another amendment to the Bill, by adding, at the end thereof, the words "And be it enacted, that no general commission to be granted by his Majesty, after issuing the said proclamation for opening the parliament, shall be construed to authorize any person or persons therein to be named to give the royal assent to any bill or bills to be agreed upon by both Houses of Parliament."

Colonel *Phipps* said, there needed not all the wisdom and knowledge to be gleaned from the learned dialogue, that the House had heard between doctor and student, to furnish an answer to the hon. gentleman's clause. He could give his hon. friend a reason why his clause ought not to stand, in a very few sentences. In the first place, no clause could possibly be received contrary to the general purview of a Bill, as expressed in the preamble. If the hon. gentleman would look to the preamble, he would not find a single word about placing restrictions on his Majesty's exercise of his royal authority, when he had an undoubted right to exercise it. If it were necessary the colonel said, to restrain the power of the Crown, let it be done after his Majesty's recovery, not while he is lying on his bed of sickness.

The amendment was negatived.—On the question, that the Bill do pass,

Mr. *Brandling* said, he thought it his duty to declare, that he approved of the whole of the Bill. He spoke in terms of warm praise of Mr. Pitt's conduct throughout the proceeding, and in particular of his having agitated and brought to a decision the question of right, a question so important to the constitutional privileges of the two Houses of Parliament.

Mr. *Grey* rose to assert, what, he said, he ever would assert, as often as the subject was agitated, namely, that no right whatever to exercise the royal authority, independent of the authority of parliament, had been claimed or even urged. His right hon. friend (Mr. Fox) had stated it to be his opinion, that such a right existed, but he had expressly declared, at the time, that he mentioned it merely as his private opinion, and without any authority whatever.

The Bill was then passed, and ordered to be carried up to the Lords.

Copy of the Regency Bill, as passed by the Commons.] As the Regency Bill, in consequence of his Majesty's recovery, was never passed into a law, and is consequently not to be found in the Statute-book, a copy of the said Bill, as it passed the House of Commons, is here preserved:

A Bill, intituled An Act to provide for the Care of his Majesty's Royal Person,

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and for the Administration of the Royal Authority, during the continuance of his Majesty's Illness.

Whereas, by reason of the severe indisposition with which it hath pleased God to afflict the King's most excellent Majesty, the personal exercise of the royal authority by his Majesty is for the present so far interrupted that it becomes necessary to make provision for assisting his Majesty in the administration and exercise of the royal authority during the continuance of his Majesty's indisposition, in such manner, and to such extent, as the present circumstances, and the urgent concerns of the nation, require; be it therefore enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that his royal highness George Augustus Frederick, Prince of Wales, shall have full power and authority, in the name and on the behalf of his Majesty, and under the style and title of Regent of this kingdom, to exercise and administer, according to the laws and constitution of Great Britain, the royal power and authority to the Crown of Great Britain belonging, and to use, execute, and perform all authorities, prerogatives, acts of government, and administration of the same which lawfully belong to the King of this realm, to use, execute, and perform, subject to such limitations, exceptions, regulations, and restrictions, as are herein after specified and contained.

And be it also enacted by the authority aforesaid, that no acts of regal power, prerogative, government, or administration of government, of what kind or nature soever, which might lawfully be done or executed by the King's most excellent Majesty, personally exercising his royal authority, shall, during the continuance of the Regency by this act established, be valid and effectual, unless done and executed in the name, and on the behalf, of his Majesty, by the authority of the said Regent, according to the provisions of this act, and subject to the limitations, exceptions, regulations, and restrictions, herein contained.

And be it further enacted by the authority aforesaid, that the said Regent before he shall act, or enter upon his said office of Regent, shall take the following oath of office:

"I do solemnly promise and swear, that I will truly and faithfully execute the office of regent of the kingdom of Great Britain, according to an Act of parliament passed in the 29th year of the reign of his Majesty king George 3, intituled, An Act to provide for the care of his Majesty's royal person, and for the administration of the royal authority during the continuance of his Majesty's illness; and that I will administer, according to law, the power and authority vested in me by virtue of the said Act, and will, in all things, to the utmost of my power and ability, consult and maintain the safety, honour, and dignity of his Majesty, and the welfare of his people. "So help me God."

Which oath shall be taken before his Majesty's most honourable privy council, who are hereby required and empowered to administer the same, and to enter the same in the books of the said privy council.

And be it further enacted by the authority aforesaid, that the said Regent shall be deemed and taken to be a person having, and executing an office and place of trust within England, and shall take and subscribe such oaths, and make and subscribe such declaration, and do all such acts as are required by the laws and statutes of this kingdom to qualify persons to hold offices and places of trust, and to continue in the same, in such manner, as in, and by the said laws and statutes are required and under such pains, penalties, forfeitures, and disabilities, as are therein and thereby appointed and ordained.

And be it also enacted by the authority aforesaid, that it shall be lawful for the said Regent to take and subscribe such oaths, and make and subscribe such declaration in, and before his Majesty's most honourable privy council; and that the certificate of his having received the sacrament of the Lord's Supper in any of the royal chapels signed by the person administering the same, shall be registered in the books of the said most honourable privy council; and that such taking and subscribing the said oaths, and making and subscribing the said declaration, and taking the sacrament of the Lord's supper as afore-said, shall be, to all intents and purposes, as effectual as if the same had been respectively taken, made, and subscribed in the manner now required by law for the qualification of persons to hold offices and places of trust, and to continue in the same.

And be it enacted by the authority aforesaid, that nothing in this Act con-

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tained shall extend, or be construed to extend, to empower the said Regent, in the name, and on the behalf of his Majesty, to give the royal assent to any bill or bills in parliament, for repealing, changing, or in any respect varying the order and course of succession to the Crown of this realm, as the same stands now established in the illustrious House of Hanover, by an Act, passed in the twelfth year of the reign of king William 3, intituled, An Act for the further limitation of the Crown, and better securing the rights and liberties of the subject; or to any act for repealing or altering the Act, made in the thirteenth year of the reign of king Charles 2, intituled, An Act for the uniformity of public prayers and administration of sacraments, and other rites and ceremonies, and for establishing the form of making, ordaining, and consecrating bishops, priests, and deacons in the Church of England; or the Act of the fifth year of the reign of queen Anne, made in Scotland, intituled An Act for securing the Protestant religion, and presbyterian church government.

Provided also, and be it enacted by the authority aforesaid, that if his said royal highness George Augustus Frederic, Prince of Wales, shall not continue to be resident in Great Britain, or shall, at any time, marry a papist, then, and in either of such cases, all the powers and authorities vested in his said Royal Highness, by virtue of this Act, shall cease and determine.

Provided always, and be it enacted by the authority aforesaid, that his Royal Highness shall not have, or exercise any power or authority to grant, in the name and on the behalf of his Majesty, any rank, title, or dignity, of the peerage of this realm, by letters patent, writ of summons, or in any other manner whatever, or to summon any person to the House of Lords by any title to which such person shall be the heir apparent, or to appoint any such rank, title, or dignity, which now is, or hereafter shall be, in abeyance, to any of the coheirs thereof.

Provided, nevertheless, and be it enacted, that it shall be lawful for his said Royal Highness to grant, in the name and on the behalf of his Majesty, any rank, title, or dignity, of the peerage of this realm, to such of his Majesty's royal issue as shall have attained the full age of twenty-one years.

Provided also, and be it enacted by the authority aforesaid, that the said Regent shall not have power or authority to grant, in the name and on the behalf of his Majesty, any office or employment whatever in reversion, or to grant for any longer term than during his Majesty's pleasure, any office, employment, salary, or pension whatever; save only that it shall be lawful for the said Regent to grant, in the name and on the behalf of his Majesty, all such offices and employments in possession, for the term of the natural life, or during the good behaviour, of the grantee or grantees thereof respectively, as by law must be so granted.

And be it further enacted, by the authority aforesaid, that the said Regent shall not have power, in the name and on the behalf of his Majesty, to make any gift, grant, alienation, lease, or other assurance, to any person or persons, body politic, or corporate, whatever, under the Great Seal of Great Britain, Exchequer seal, seals of the Duchy or County Palatine of Lancaster, or any of them, or by copy of court roll, or otherwise, of any manors, messuages, lands, tenements, rents, tythes, woods, or other hereditaments, now belonging or hereafter to belong to his Majesty, or to any person or persons in trust for his Majesty, in possession, reversion, remainder, use, or expectancy, whether the same be, or shall be, in right of the Crown of Great Britain, or as part of the principality of Wales, or of the duchy or county palatine of Lancaster, or otherwise howsoever, whereby any estate or interest whatsoever, in law or equity, shall or may pass from his Majesty; but that every such gift, grant, alienation, lease, or other assurance, shall be null and void, without any inquisition, scire facias, or other proceeding, to determine and make void the same, unless such grant, lease, or assurance, shall be made of such lands, tenements, and hereditaments, and none other, as have been usually demised within the space of ten years last past, or shall be made for the renewing of any grant, lease, or other assurance, now subsisting of the lands, tenements, or hereditaments aforesaid, according to the several provisions, regulations, and restrictions, of an Act, passed in the first year of the reign of queen Anne, intituled, An Act for the better support of her Majesty's household, and of the honour and dignity of the Crown; provided always that this Act, or any thing herein contained, shall not extend to disable the said Regent to make any grant or restitution of any estate or

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estates hereafter to be forfeited for any treason or felony whatever; or to disable the said Regent to grant, demise, or assign any lands, tenements, or hereditaments, which shall be seized or taken into his Majesty's hands upon any outlawry, at the suit of his Majesty or his subjects, in such manner as hath been usual; or any estate whatever, which is, or shall be seized, extended, or taken in execution, for any debt owing, or to be due to the Crown, as the said Regent, on the behalf of his Majesty, shall think fit; or, to make any grants or admittances, which of right or custom ought to be made, of any copyhold or customary lands, tenements, or hereditaments, parcel of any manor or manors of his Majesty.

And be it also enacted by the authority aforesaid, that the said Regent shall not have power to grant or alienate any part of the personal estate to his Majesty belonging, but that every such grant or alienation shall be void and of none effect. Provided always that this Act, or any thing therein contained, shall not extend to disable the said Regent from exercising, in the name and on the behalf of his Majesty, all and every the rights, privileges, powers, and prerogatives, over the small branches of his Majesty's hereditary revenue hereinafter mentioned; that is to say, the monies arising by fines for writs of covenant, or writs of entry, payable in the alienation office; the monies arising by the post fines; the monies arising by sheriff's proffers, and compositions in the Exchequer, and seizures of prohibited and uncustomed goods, in like manner as the same are reserved to his Majesty, by virtue of an Act, made and passed in the first year of his Majesty's reign, intituled, An Act for the support of his Majesty's household, and of the honour and dignity of the Crown of Great Britain; or to disable the said Regent from remitting, mitigating, or pardoning, in the name and on the behalf of his Majesty, any penalty or forfeiture incurred, or to be incurred, of any sum, or sums of money become, or which shall become, due or forfeited to his Majesty, which by law may be remitted, mitigated, or pardoned: Provided also, that this Act, or any thing therein contained, shall not disable the said Regent from issuing and applying all such monies as now are, or shall be, applicable to the civil government of the realm, by virtue of any act or acts of parliament made, or to be made.

And be it enacted by the authority aforesaid, that the several letters patent, letters of Privy Seal, and all other lawful authorities, of what nature or kind soever, which have been granted or issued by his Majesty, by virtue whereof any payments of any sum or sums of money, are directed to be made out of the monies applicable to the use of his Majesty's civil government, for the use of the Queen's most excellent Majesty, or for the use of any of the branches of his Majesty's royal family, shall continue to be, and the same are hereby enacted to continue to be of full force and effect respectively, during the continuance of the Regency by this Act established; and that warrants shall be issued by the Lord High Treasurer, or Lords Commissioners of the Treasury for the payment of the several sums therein respectively contained, which warrants the said Lord High Treasurer, or Lords Commissioners of the Treasury, are hereby respectively required to issue at the usual and accustomed times and in the usual, and accustomed manner.

And be it further enacted by the authority aforesaid, that the Lord High Treasurer, or the Lords Commissioners of the Treasury, shall from time to time direct so much of the monies of the civil list revenues to be issued at the receipt of the exchequer, as shall be sufficient to pay the whole of the expenses incurred in each quarter, in the several departments of his Majesty's household, in the same order, and in like manner as is directed by an Act, made in the twenty-second year of his Majesty's reign, intituled, An Act for enabling his Majesty to discharge the debt contracted upon his civil list revenues, and for preventing the same from being in arrear for the future, by regulating the mode of payments out of the said revenues, and by suppressing or regulating certain offices therein mentioned, which are now paid out of the revenues of the civil list; provided that the whole amount of such expenses, at the end of each quarter, shall not exceed by more than three thousand pounds, the amount of the expenses of the said departments at the end of the corresponding quarter in the year one thousand seven hundred and eighty-eight, and that the whole of the expense of any one year; from the fifth day of January to the fifth day of January in the succeeding year, shall not exceed the whole expense of the said departments in the year ending on the fifth day of

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January one thousand seven hundred and eighty-nine.

Provided always, and be it enacted by the authority aforesaid, that it shall and may be lawful for the said Regent, in the name and on the behalf of his Majesty, to make any such grant or grants of, or charge or charges upon, the several and respective duties and revenues which are payable to his Majesty in that part of Great Britain called Scotland, as his Majesty can now lawfully make of such duties and revenues; save and except, that it shall not be lawful for the said Regent to make any grant or grants thereof, or charge or charges thereupon, in the name and on the behalf of his Majesty, for any longer time or term than during the pleasure of his Majesty.

And be it further enacted by the authority aforesaid, that the Lord High Treasurer, or Lords Commissioners of the Treasury, shall direct, and they are hereby required annually to direct, on or before the twenty-seventh day of April, the sum of sixty thousand pounds, to be issued out of the monies of the civil list revenue, to the keeper of his Majesty's privy purse for the time being; and that the said keeper of his Majesty's privy purse shall be, and he is hereby authorized and directed, during the continuance of the Regency by this Act established, to issue and apply the sum of twelve thousand pounds in the year, in such yearly, half-yearly, or quarterly payments, to such persons, and in such manner, as he has issued and applied the same by the authority and direction of his Majesty; and that he shall pay, and he is hereby authorized and directed to pay, the sum of one thousand pounds at the expiration of each and every quarter, to such person as her most excellent Majesty the Queen shall, by an instrument signed and sealed by her Majesty, authorize and direct to receive the same, to be by her Majesty's direction applied in such gifts, charities, and allowances, as her Majesty may judge the same would have been applied to by his Majesty, and that the remainder of the aforesaid sum shall be invested by the said keeper of his Majesty's privy purse in some of the public funds of government securities in the name of the keeper of his Majesty's privy purse, for the time being, in trust for his Majesty; and that the net surplus of the revenues of the duchy and county palatine of Lancaster shall be from time to time paid, under the order of the chancellor and council of the said duchy, into the hands of the keeper of his Majesty's privy purse, whose receipt shall be a sufficient discharge for the same, and shall by him be invested in some of the public funds or government securities, in manner aforesaid; and that the governor and company of the Bank of England shall place the said several sums on an account, to be raised in the books of the said govenor and company, intituled, The account of the keeper of his Majesty's privy purse; and that upon the death, resignation, or removal, of the present and every other keeper of his Majesty's privy purse, hereafter to be appointed, all and every the said stock or stocks, and sum or sums of money arising from the dividends which shall accrue thereon, shall immediately vest in the successor of the present or any future keeper of his Majesty's privy purse respectively; and the keeper of his Majesty's privy purse for the time being is hereby required to lay out and invest the dividends, so accruing as aforesaid, from time to time, in the purchase of other stocks and securities on the like account, and that the keeper of his Majesty's privy purse for the time being shall, from time to time, execute declarations of trust of all such funds and securities, declaring that the same are held in trust for his Majesty by instruments to be executed under his hand and seal, to be deposited with her Majesty.

Provided always, and be it enacted by the authority aforesaid, that the said keeper of his Majesty's privy purse shall, on or before the twenty-seventh day of April, one thousand seven hundred and ninety, and on or before the twenty-seventh day of April in every succeeding year, during the continuance of this Act, take an oath before the Barons of the Exchequer, or one of them, in the form following:

"I, A. B., do swear, that, according to the best of my knowledge, belief, or information, no part of the money which has been issued to me for the service of his Majesty's privy purse, by virtue of an act, intituled, An Act to provide for the care of his Majesty's royal person, and for the administration of the royal authority, during the continuance of his Majesty's illness; between the day of and the day of has been applied, directly or indirectly, for the benefit, use, or behoof, of any member of the House of

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Commons, or, so far as I am concerned, applicable, directly or indirectly, to the purpose of supporting or procuring an interest in any place returning members to parliament. "So help me God."

And whereas it is necessary that proper provision should be made for the care of his Majesty's royal person, during the continuance of his illness, and for the direction and government of his Majesty's household, in such manner as the circumstances of the case at present appear to require; be it therefore enacted by the authority aforesaid, that the care of his Majesty's royal person, during the continuance of his said illness, and the disposing, ordering, and managing, of all matters and things relating thereto, and also the direction and government of his Majesty's household, shall be, and the same are hereby vested in the Queen's most excellent Majesty; and that her said Majesty shall have the full and sole power and authority, by an instrument in writing, signed and sealed by her Majesty, to nominate, appoint, or remove, the Lord Steward of his Majesty's household, the Lord Chamberlain of his Majesty's household, the Master of the Horse to his Majesty, and the Master of the Robes, and Keeper of his Majesty's Privy Purse, the Groom of the Stole, the gentlemen and grooms of his Majesty's bedchamber, and the several officers in the respective departments aforesaid, whose appointment, nomination, or removal, have been heretofore made by his Majesty; and that the nomination and appointment of her Majesty, in the manner and form aforesaid, shall be valid and effectual, to all intents and purposes, as if the same had been made or done by his Majesty in the accustomed manner; and that the several persons so appointed shall be entitled to the like precedence, privileges, salaries, wages, profits, and all other emoluments, as the several persons now holding and enjoying the said offices are respectively entitled to.

And whereas the execution of the weighty and arduous trusts hereby committed to the Queen's most excellent Majesty, in respect of the care of his Majesty's royal person, and of the disposing, ordering, and managing, of all matters and things relating thereto, may require the assistance of a council, with whom her Majesty may consult and advise in the discharge of the same; be it therefore enacted by the authority aforesaid, that in order to assist and advise her said most excellent Majesty in the several matters aforesaid, there shall be, during the continuance of his Majesty's illness, a council, consisting of John lord archbishop of Canterbury, Edward lord Thurlow, William lord archbishop of York, Lloyd lord Kenyon: the Lord Steward of his Majesty's household for the time being; the Lord Chamberlain of his Majesty's household for the time being; the Master of the Horse to his Majesty for the time being; and the first Gentleman of the Bedchamber, and Groom of the Stole to his Majesty for the time being; which council shall, from time to time, meet, as her Majesty shall be pleased to direct; and if it should happen that any of them the said John lord archbishop of Canterbury, Edward lord Thurlow, William lord archbishop of York, and Lloyd lord Kenyon, should depart this life, then, and in such case, it shall be lawful for the Queen's most excellent Majesty, by an instrument in writing, signed and sealed by her Majesty, revokable at her will and pleasure, to nominate and appoint some one person, being or having been a member of his Majesty's most hon. privy council, to be a member of the said council, to advise and assist her Majesty as aforesaid, in the room and place of each and every of the said counsellors so departing this life; which nomination and appointment shall be forthwith certified by an instrument in writing, signed and sealed by her Majesty, to the lords of his Majesty's most honourable privy council, and shall be entered in the books thereof.

And be it further enacted by the authority aforesaid, That each and every such counsellor shall, within the space of one month after his appointment by virtue of this Act, or by virtue of her Majesty's nomination and appointment, in manner aforesaid, take the following oath before his Majesty's most honourable privy council; who are hereby required and empowered to administer the same, and to enter the same in the books of the said privy council:

"I, A. B. do solemnly promise and swear, That I will truly and faithfully counsel and advise the Queen's most excellent Majesty, according to the best of my judgment, in all matters touching the care of his Majesty's royal person, and the disposing, ordering, and managing all things relating thereto.

"So help me God."

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And be it further enacted by the authority aforesaid, That the said council, or any three or more of them, shall have power and authority at all times, when they shall judge it necessary, to call before them, and to examine upon oath, the physicians, and all other persons attendant on his Majesty during the continuance of his illness, touching the state of his Majesty's health, and all matters relating thereto; which oath any member of the said council is hereby authorized and empowered to administer.

And be it further enacted by the authority aforesaid, That if any person, being a member of the House of Commons, shall accept of any office of profit from the Crown, by the nomination and appointment of her Majesty the Queen, by virtue of this Act, or by the said Regent, in the name and on behalf of his Majesty, during the continuance of the Regency hereby established, his election shall be, and is hereby declared to be void, and a new writ shall issue for a new election, in such and the like manner as if such person had been appointed to such office by his Majesty.

And be it further enacted by the authority aforesaid, That if her Majesty the Queen shall depart this life during the time that the care of his Majesty's royal person shall be committed to her Majesty, according to the provisions of this Act, the said Regent shall forthwith order and direct a proclamation, under the Great Seal of Great Britain, to be issued and published, declaring the same, and, in case the parliament then in being shall then be separated by any adjournment or prorogation, directing that the said parliament shall forthwith meet and sit, or, if there shall be no parliament in being, then, and in such case, directing that the members of the last preceding parliament shall forthwith meet and sit.

And be it enacted, That the said members, so meeting and sitting, shall be deemed and taken to be the two Houses of Parliament, to all intents and purposes, as if the former parliament had not been dissolved; but that they shall not continue to sit as the said two Houses, or be deemed and taken as such, for any longer time than six months after the day on which they shall so meet, and that they shall be subject to be sooner prorogued or dissolved.

And be it also further enacted by the authority aforesaid, That, until due provision shall in such case have been made by parliament for the care of his Majesty's royal person, all and every the powers and authorities in and by this Act vested in her Majesty, touching the care of his Majesty's royal person, and the disposing, ordering, and managing of all matters and things relating thereto, shall be, and the same are hereby vested in the council in and by this Act appointed to assist and advise her Majesty in the execution of the trusts to her said Majesty committed by virtue of this Act: Provided nevertheless, that in such case nothing in this Act contained shall extend, or be construed to extend, to impower the said Regent, or the said council, to nominate, appoint or remove any of the several officers of his Majesty's household herein mentioned, until due provision shall have been made by parliament in that behalf.

And be it further enacted by the authority aforesaid, that if his royal highness George Augustus Frederick, Prince of Wales, shall depart this life during the continuance of the Regency by this Act established, the lords of his Majesty's most honourable privy council shall forthwith cause a proclamation to be issued in his Majesty's name, under the Great Seal of Great Britain, declaring the same, and in case the parliament then in being shall then be separated by any adjournment or prorogation, directing that the said parliament shall forthwith meet and sit, or, if there shall be no parliament in being, then and in such case, directing that the members of the last preceding parliament shall forthwith meet and sit.

And be it enacted, That the said members so meeting and sitting shall be deemed and taken to be the two Houses of parliament, to all intents and purposes, as if the former parliament had not been dissolved, but that they shall not continue to sit as the said two Houses, or be deemed and taken as such, for any longer time than six months after the day on which they shall so meet.

And be it further enacted by the authority aforesaid, That when it shall appear to her Majesty the Queen, and to five of the council appointed by this Act to assist her Majesty in the execution of the trust committed to her Majesty by this Act, that his Majesty is restored to such a state of health as to be capable of resuming the personal exercise of the royal authority, it shall and may be lawful for her said Majesty, by the advice of

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five of her said council, to notify the same, by an instrument under her Majesty's hand, and signed also by the said five of her Majesty's said council, and addressed to the Lord President of his Majesty's most honourable privy council for the time being, or, in his absence, to one of his Majesty's principle secretaries of state; and the said Lord President, or secretary of state, shall, and is hereby required, on receipt thereof, to communicate the same to the said Regent, and to summon forthwith a privy council; and the members of his Majesty's most hon. privy council are hereby required to assemble in consequence of such summons; and the said Lord President, or, in his absence, the said Secretary of State, is required, in the presence of any six or more privy counsellors so assembled, to cause the said instrument to be entered on the books of the said privy council, and immediately thereafter to send a copy of such instrument to the Lord Mayor of the city of London, and likewise to cause the same to be printed in the London gazette.

And be it further enacted by the authority aforesaid, That if at any time after the said instrument under the hand of her Majesty, and of five of her said Council, shall have been received and entered as aforesaid, his Majesty shall think proper, by an instrument under his sign manual, to require the Lord President of his Majesty's most honourable Privy Council for the time being, or, in his absence, one of his Majesty's principal Secretaries of State, to summon a council in his Majesty's presence, consisting of any number of persons, not less than nine, whom his Majesty shall name, not being members of the Council appointed by this Act to assist her Majesty, and who shall be, or shall have been members of his Majesty's most honourable privy council, the said Lord President, or Secretary of State shall, and he is hereby required to summon such persons accordingly, and as well the said Lord President, or Secretary of State, as the other persons so summoned, shall, and they are hereby required to attend at the time and place appointed by his Majesty, and such persons so assembled shall be, and be deemed to be, a privy council for the purpose herein-after mentioned.

And be it further enacted, by the authority aforesaid, That if his Majesty, by the advice of six of such privy council so assembled, shall signify his royal pleasure to resume the personal exercise of his royal authority, and to issue a proclamation declaring the same, such proclamation shall be issued accordingly, countersigned by the said six of the said privy council; and all the powers and authorities given by this Act shall from thenceforth cease and determine, and the personal exercise of the royal authority by his Majesty shall be and be deemed to be resumed by his Majesty, and shall be exercised by his Majesty, to all intents and purposes, as if this Act had never been made.

And be it further enacted, by the authority aforesaid, That if the Parliament in being at the time of the issuing such proclamation as aforesaid shall then be separated by adjournment or prorogation, the said Parliament shall forthwith meet and sit, and if there shall be no Parliament in being at the time of issuing such proclamation as aforesaid, then, and in such case, the members of the last preceding Parliament shall forthwith meet and sit.

And be it enacted, That the said members so meeting and sitting, shall be deemed and taken to be the two Houses of Parliament, to all intents and purposes, as if the former Parliament had never been dissolved; but that they shall not continue to sit as the said two Houses, or be deemed and taken as such, for any longer time than six months after the day on which they shall so meet, and that they shall be subject to be sooner prorogued or dissolved.

Provided always, and be it enacted, That so much of this Act as provides that the said Regent shall not have power and authority to grant, in the name and on the behalf of his Majesty, any office or employment whatever in reversion, or to grant for any longer term than during his Majesty's pleasure any office, employment, salary, or pension whatever, may be varied or repealed by any act or acts to be made for that purpose in this present session of Parliament in so far only as relates to the granting of any office, employment, salary, or pension, to any person appointed to the office of Lord High Chancellor of Great Britain; or to any person retiring on account of age or infirmity from the office of Chief Justice or Justice of the Courts of King's-bench or Common Pleas, or Chief Baron or Baron of the Court of Exchequer at Westminster.

Provided also nevertheless, and be it enacted, That the said limitation of the power of the said Regent, with respect

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to the granting, in the name and on the behalf of his Majesty, any rank, title, or dignity of the peerage of this realm, shall continue and be in force for and during the space of three years from the commencement of this Act, and no longer.

And be it enacted by the authority aforesaid, That this Act, and the several powers and authorities to be exercised by virtue of the same, shall commence and take effect from and after the 18th day of February, 1789.

Debates in the Lords on the Regency Bill.] Feb. 13. The Regency Bill was brought up from the Commons, read a first time, and ordered to be printed.

Feb. 16. The Bill was read a second time. On the motion, That it be committed,

The Duke of *Grafton* rose. He said he felt himself in an awkward situation, in rising then for the first time to speak to a Bill, of so much critical importance, the groundwork of which had undergone so much discussion in both Houses, that many of their lordships had delivered their sentiments upon the subject, and perhaps most of them had sanctioned those sentiments by their votes; but, anxious as he felt to avoid misrepresentation, when the propensity to misrepresent was so powerful, that even what appeared to him to have originated in the best and purest motives, had been in a most extraordinary manner imputed to the worst and the most sinister; and, fearful as he was, lest it should not be thought that the whole of the measures that had been pursued in the difficult situation in which the nation had found itself involved, in consequence of his Majesty's unfortunate illness, had his entire concurrence, he could not resist that opportunity of doing what he had been again and again prevented from, by repeated fits of illness, viz. deliver his sentiments on the principle of the Bill then under consideration. He would not trespass on their patience by going improperly into any argument respecting particular clauses. He meant merely in a general way to state his sentiments, not of parts of the Bill, but of the whole of the system of measures that had been adopted, declaring, that he heartily approved of it, as in his judgment most consonant with the true principles of the constitution. It had been extremely proper, in his opinion, for parliament to have those precedents in view, which had been collected and submitted to their consideration, though perhaps they were chosen from times, not precisely such as ought to be made the ground of immediate proceeding under the calamitous circumstances of the moment. In fact, the measures that had been adhered to seemed to him to be wisely adapted to supply the temporary defect in the form of our government, and to be such as the remaining estates could best take to provide for the deficiency. There was one point to which, though he meant not to go into any discussion, he would just say a word or two; and that was, the clause that declared that nothing contained in the Bill, should be construed to extend to empower the Regent to give the royal assent to any Bill for repealing the Act of Uniformity. By giving his approbation to the Bill, he wished not to be considered as declaring his opinion that the Act of Uniformity was infallible, or that it ought not, at any future period, to be rendered a subject of discussion and re-consideration. The original framers of the Act of Uniformity, he was persuaded, by no means intended it to be so regarded; but being actuated by the best motives, designed to frame the Act on the wisest principles, and being conscious of having done so, had thought it could not too often be brought under discussion. The Dissenters, he was convinced, were entitled to every degree of candour and liberality, that should be found consistent with true policy. He could easily conceive, that it had been difficult to decide, under circumstances so new and so embarrassing, upon what was the proper and most constitutional mode of proceeding, and therefore he gave those who opposed the Resolutions on which the Bill then before them was founded, full credit for having objected upon principles perfectly honourable and pure; he trusted, however, that those to whom he alluded would have the candour to give him the same degree of credit that he was willing to allow them.

Lord *Southampton* said, he was extremely embarrassed in rising to differ with the noble duke, and the more so, when he found himself obliged to differ with him on the principles of the constitution. He had long been accustomed to bow with reverence to the political system of the noble duke, and from a consciousness of his superior knowledge and ability, to make the noble duke's sentiments on public affairs his own political

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creed; but, on the present occasion, so far from thinking with the noble duke, that the measures that had been pursued, and which had been rendered the groundwork of the Bill, were consonant to the true principles of the constitution, he considered them as the most nefarious measures, the most unconstitutional, and the most dangerous that had ever been adopted. He felt, like the noble duke, as a warm friend to his country, a warm friend to his sovereign, a warm friend to his royal progeny, and a warm friend to every thing that ought to be held sacred in the constitution; and he would appeal to the noble duke's candour, whether if he were minister, he could carry on a government under such restrictions as the Bill imposed on the Regent. He had ever acknowledged with gratitude the salutary effects of the noble duke's administration, and the public had concurred in bestowing their cordial applause on no one measure of that administration more than the restraining the East India Company in respect to their dividends. That wholesome measure had proved the salvation of the Company. Would the noble duke say, that, acting as a minister under the restrictions of the Bill then under consideration, it would have been possible for him to have carried the salutary measure to which he had alluded into effect? The noble duke well knew, that the great cause of his leaving office, had been his having found, that the power of the Crown was not sufficient to enable him to carry on a government of efficacy and of vigour; how then could it be expected that the Regent should be able to carry on such a government with mutilated and diminished powers?

The Bill was ordered to be committed.

Feb. 17. The order of the day being read for the House to resolve itself into a committee on the Regency Bill, the Lord Chancellor left the woolsack, and lord Walsingham went to the table as chairman of the committee.

Lord *Osborne* proposed an amendment in the first clause, the object of which was, to insert words, confining the delegation of authority to the Prince of Wales to govern the kingdom, under the style and title of Prince Regent, "to the period of the duration of his Majesty's indisposition, and until the issuing the proclamation, declaring his Majesty's resumption of the personal exercise of the royal authority, as in manner herein-after provided."

This amendment was agreed to. When the clause restraining the Regent from giving the royal assent to any bill or bills for repealing or changing the order of succession to the crown, as the same stands established by the Act of Settlement, or to any act for repealing the Act of Uniformity, or the Act for securing the Presbyterian Church Government of Scotland, was read, a good deal of conversation ensued. The duke of Norfolk and lord Porchester contended, that restraining the Prince Regent from giving the royal assent to any bill for repealing the Act of Settlement, was an unnecessary restriction, as it was not to be imagined the Prince, as Regent, would injure his own interest as heir apparent to the crown.

Earl *Stanhope* said, their lordships had now come to the most important part of the Bill. Any person who looked into the act of parliament referred to in the clause, must be of opinion that the clause was ill worded. In the first place, the Act of Charles 2, was not an Act of the 13th, but of the 13th and 14th of that reign. Next, in that Act, there was a clause which re-enacted and confirmed all the statutes that were replete with persecutions of the most harsh and severe nature. He wished to qualify the wording of the clause, so as to leave the door open to discussion, and, if it should hereafter be the sense of Parliament, to a repeal not of the Act of Uniformity, but of all the persecuting statutes referred to by a clause in that Act; and he said he had some authority for the amendment that he should move, the right hon. gentleman who brought the Bill originally into the other House, having seemed to approve of such an alteration. His lordship here read the enacting clause in the 13th and 14th Charles 2, cap. 4, viz. "The several good laws and statutes of this realm, which have been formerly made, and are now in force, for the Uniformity of Prayer and Administration of Sacraments, shall stand and be in full force and strength to all intents and purposes, for the establishing and confirming the Book of Common Prayer annexed to this Act. And shall be applied, practised, and put in use, for the punishing of all offences contrary to the said laws, with relation to the book aforesaid, and no other." They had, his lordship said, had many different Common Prayer Books at different periods, and the

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clause he had just read, re-enacted all the Acts referring to all those different Common Prayer Books, and many of them were as scandalous statutes as ever disgraced a statute book; and were clearly passed in the days of darkness and ignorance by those who had as little religion as humanity. Some of them contained rank blasphemy, as he would convince their lordships, by reading an abstract from one of them. His lordship read in this place the following abstract: the 2d and 3d Edw. 6. cap. 1, recites, that "the archbishop of Canterbury, and certain bishops, and other learned men, had been appointed by the King's uncle, the Lord Protector, and other of his highness's council, to draw, and make one convenient and meet order, rite, and fashion of common and open prayer and administration of the sacraments to be had and used in his Majesty's realms of England and Wales: the which at this time, by the aid of the Holy Ghost, with one uniform agreement is of them concluded, set forth, and delivered to his highness, to his great comfort and quietness of mind, in a book intituled, 'The Book of the Common 'Prayer and Administration of the Sacra-'ments and other Rites and Ceremonies 'of the Church, after the Use of the 'Church of England.' Sect. 2, enacts, "That if any person or persons whatsoever, after the feast of Penticoste then next coming, shall in any interludes, plays, songs, rhymes, or by other open words, declare or speak any thing in the derogation, depraving or despising of the same book, or of any thing therein contained, or any part thereof, shall, for the first offence, forfeit 10*l.*, for the second offence, 20*l.* and for the third offence forfeit all his goods and chattels, and suffer imprisonment during his life."

His lordship commented on this declaration, that the Common Prayer Book referred to in the above abstract, had been written with the assistance of the Holy Ghost, and then said, that in the very same reign by a subsequent statute, a new Book of Common Prayer was set up, as appeared by 5th and 6th Edw. 6, ch. 1, sect. 5, (speaking of the Book of Common Prayer, of 2d and 3d of Edw. 6.) "Therefore, as well for the more plain and manifest explanation hereof" (the same, observed his lordship, being unintelligible), "as for the more perfection of the said order of common service, in some places" (though the same had been best established by the Holy Ghost, as stated in the former act of parliament), "where it is necessary" (not merely expedient and proper, but, from its absurdity, necessary), "to make the same prayers and fashion of service more earnest and fit to stir Christian people to the true honouring of Almighty God (the book of the Holy Ghost being quite unfit for that purpose, infamous blasphemy!) the king, with the assent of the Lords and Commons, has caused the Book of Common Prayer to be explained, and made more fully perfect." Sect. 2. "If any person shall willingly hear and be present at any other manner or form of Common Prayer, than is set forth in the said book, annexed to this present statute, shall, for the first offence, suffer imprisonment for six months, without bail or mainprise; for the second offence, imprisonment for one whole year; and for the third offence, imprisonment during his or their lives." Even, therefore if present when the Book of the Holy Ghost is read. How barefaced and infamous!

His lordship mentioned the various statutes that were alluded to in the general clause of reference in the 13th and 14th of Charles 2, sec. 24, in the following order, commenting on them as he mentioned them. The said Acts, viz. 2d and 3d Edw. 6, and 5th and 6th Edw. 6, repealed by 1st Mary, sec. 2, ch. 2. And 1st Elizabeth, chap. 2, sec. 2, revives 5th and 6th Edw. 6, as to book, with alterations and additions. This, his lordship observed, was the third book. Sect. 26, enacts that the Queen, by advice of certain commissioners of the Metropolitan, may ordain further rites and ceremonies. Therefore the order of the Common Prayer Books were, 1st, Holy Ghost; next parliament; next the queen and archbishop of Canterbury. Sect. 9, depraving 3d book, 100 marks, first offance. Sect. 10, second offence, 400 marks. Sect. 11, third offence, forfeiture of goods and chattels, and imprisonment for life. Sect. 16. Church censure against persons offending against this Act. 5th Eliz. ch. 23, specifies the cases in which an excommunicated person may be imprisoned, by means of the writ 'de excommunicato capiendo.' Sect. 13, specifies said cases as follows: 5th Eliz. ch. 23, "An Act for the due execution of the writ 'de excommunicato capiendo.' Sect. 13, "And that if the offender against whom any such writ of 'excommunicato capiendo'

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shall be awarded, shall not in the same writ of 'excommunicato capiendo' have a sufficient and lawful addition, according to the form of the statute, 1° Hen. 5, in cases of certain suits, whereupon process of exigent are to be awarded: or, if in the significavit it be not contained that the excommunication doth proceed upon the same cause or contempt of some original matter of heresy, or refusing to have his or their child baptized, or to receive the Holy Communion as it is now commonly used to be received in the church of England, or to come to divine service now commonly used in the said church of England, or error in matter of religion or doctrine now used and received in the said church of England, incontinency, usury, simony, perjury in the Ecclesiastical Court, or idolatry; that then all and every pains and forfeitures limited against such persons excommunicated by this statute, by reason of such writ of 'excommunicato capiendo,' wanting such sufficient addition, or of such significavit wanting all the causes aforementioned, shall be utterly void in law; and by way of plea to be allowed to the party grieved."—1st Eliz. ch. 2, sect. 14. Every person to go to church every Sunday or Holy Day, or to forfeit twelve-pence.—23 Eliz. ch. 1, sect. 5. Every person above sixteen, not going to church for a month, shall forfeit for every month 20*l.* and shall in twelve months be bound with two sufficient sureties in 200*l.* at least, for his good behaviour. Sect. 11. Imprisonment if he cannot pay. 35 Eliz. chap. 1, sect. 1. Person refusing to go to church to be committed till he does go (To choose between a cathedral and a prison!). Sect. 8. Keeping in one's house a recusant, 10*l.* per month. 3 James 1, chap. 4, sect. 11, 20*l.* (for a man who cannot pay twenty shillings, sufficient cruelty). That the penalties may be raised, said the Act, "in better proportion upon men of great ability," it therefore enacts, that the king may refuse the 20*l.* per month incurred for not going to church, though the same be legally tendered, and may take two parts out of three of all the lands, tenements and hereditaments of the said vile offender. Sect. 32 and 33. Having a recusant in his house, forfeit 10*l.* per month. Sect. 34. Humane proviso in favour of father and mother wanting other habitation. (If they do not want other habitation, even father and mother are to be turned head and shoulders out of doors!) Sect. 39. Ecclesiastical jurisdictions reserved against offenders against this Act. 13 and 14 Ch. 2, chap. 4, sect. 2, (4th Book of Common Prayer.) Sect 24. Applies all the good laws then in force for persecution to the new book. 29 Ch. 2, chap. 9, An Act for taking away the writ 'de hæretico comburendo.' Sect 1. Heretics not to be burnt to death: but in sect. 2, curious proviso. 1 W. and M. stat. 1, ch. 18. Toleration Act confirmed by 10 Ann, ch. 2, extended by 19 G. 3. These said laws were not repealed, but were in force, not as to all Dissenters, but in force as to all persons of the church of England, and some classes of Dissenters. Earl Stanhope mentioned also the 27 Henry 6. Act for pardoning all priests "for all manner and kind of felonies and rapes by them perpetrated."

His lordship made a variety of pointed animadversions in the progress of his mention of the several statutes above referred to, and in particular stated, that passing ecclesiastical censure on persons refusing to go to church, and punishing them for idolatry, was directly contrary to Magna Charta. It might do for the clergy, but not for laymen. Magna Charta said "No freeman shall be taken or imprisoned, or be disseized of his freehold, or liberties, or free customs; or be outlawed or exiled, or any otherwise destroyed, but by the lawful judgment of his peers, or by the law of the land." His lordship said, he did not mean then to propose any thing respecting the abominable acts of parliament that he had referred to; but he had resolved, at a future opportunity, to call their lordships' serious attention to the subject, having undergone the drudgery of going through the whole statute book, and found that there were no less than 300 acts in it upon religion. He did not wish materially to alter the clause, he only desired to leave the question open. As the clause then stood, the Prince Regent might repeal Magna Charta, the Habeas Corpus Act, or Mr. Grenville's Act for trying controverted elections, and the best and most useful statutes ever passed, but he could not repeal the worst, not even that most barefaced statute of Henry 6, which forgave the clergy all the felonies and rapes they had committed. That Act was less infamous than several of those which he had mentioned, because it only pardoned the guilty; whereas, those to which he had referred, punished the innocent. His

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lordship concluded with reading the opinions of lord Chatham and lord Mansfield, two of the greatest men that had ever lived, though they were known to have acted on very opposite principles, on the subject of toleration in matters of religion. The late earl of Chatham in the House of Lords on the Dissenters Bill, had said, "the Reformation has laid open the Scriptures to all—let not the bishops shut them again. Laws in support of ecclesiastic power are pleaded for, which it would shock humanity to execute. It is said that religious sects have done great mischief, when they were not kept under strict restraint. History affords no proof that sects have ever been mischievous when they were not oppressed and persecuted by the ruling church."—Lord Mansfield, in the House of Lords, in the case of Allan Evans, as reported by Dr. Richard Burn in his ecclesiastical law, title Dissenters, said: "What bloodshed and confusion have been occasioned from the reign of Henry 4, when the first penal statutes were enacted, down to the Revolution in the kingdom, by laws made to force conscience! There is nothing certainly more unreasonable, more inconsistent with the rights of human nature, more contrary to the spirit and precepts of the Christian religion, more iniquitous and unjust, more impolitic, than persecution. It is against natural religion, against revealed religion, and sound policy. Sad experience, and a large mind, taught that great man, the president de Thou, this doctrine. Let any man read the many admirable things which (though a papist) he had dared to advance upon the subject, in the dedication of his history to Henry 4 of France, which I never read without rapture, and he will be fully convinced, not only how cruel, but how impolitic it is, to persecute for religious opinions." And the late earl of Chatham, in a letter to the rev. Dr. Price, says, "it is impossible to be writing to Dr. Price, without the mind going of itself, to that most interesting of all objects to fallible man,—toleration. Be assured, Sir, that on this sacred unalienable right of nature, and bulwark of truth, my warm wishes will always keep pace with your own." His lordship ended with moving an amendment similar to that moved in the Commons, by by Mr. W. Smith.

The Archbishop of *Canterbury* said, he rose not to enter into any argument with the noble earl, respecting the statutes referred to in the enacting clause of the 13th Charles 2; much less was he disposed to stand up the defender of those statutes. He considered their discussion, however proper hereafter, as wholly out of time at present, and was convinced, that the main subject of the Bill was of sufficient magnitude to occupy the whole of their lordships attention. He had, besides, hoped to have persuaded the noble earl, that he had not examined the subject of the Act of Uniformity with the degree of accuracy that was due to a matter of such moment, by showing his lordship before hand, that he had omitted to take notice of several points essential to be considered and remarked in a general view of that question. His grace proceeded to state, that the several matters cognizable and punishable by the statutes mentioned by the noble earl, were applicable solely to the conduct of ministers of the Church of England, who having taken an oath to uphold and maintain the Book of Common Prayer, were declared punishable in the manner proposed in those statutes, if they held doctrines derogatory of that Book of Common Prayer, which they had solemnly sworn they would uphold and maintain. With regard to the offences themselves, the noble earl had not contended that they ought not to be the subject of some restraint; but had only argued against the excess of the restraint, and the severity of the punishment provided by the statutes in question; and upon this principle, and no other, the noble earl had objected to them all. With regard to the penalties on conviction of not going to church, they had been repealed in favour of the Dissenters by the Act of Toleration.

The Bishop of *Salisbury* said, that when the noble earl had talked of the persecuting spirit of those statutes, would not any one have imagined that they were prosecuting upon those statutes with the utmost rigour? So far from it, those statutes had long been buried in oblivion, and in all probability would have remained so, had not the noble earl chosen to have called them forth to their lordships recollection. Let the noble earl produce a single instance in which any one of those statutes had been put in force for more than a century past. The moderation of the Church of England was her boast and her chief pride. With regard to the part of the clause in the Bill which restrained the Regent from giving the royal assent to any bill or bills, for the repeal of the Act

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of Settlement, and the Act of Uniformity, such a restriction was equally wise and expedient, because it should be recollected, that the Regent having a delegated power, he ought to be restrained from doing that which no authority but that of the King upon the throne ought to be able to effect. He would take that opportunity of declaring, that every vote he had given in the progress of the business then under their consideration, was a vote arising out of the clearest conviction of his mind, that the system was a wise system, founded in constitutional principles, and adapted to the exigency of the case. He was, his lordship thanked God, perfectly independent. The goodness of Providence, and the bounty of his sovereign, had set him above the reach of party influence. He spoke, therefore, and acted in that House, merely as his conscience dictated; and so satisfied was he of the excellence of the measures that had been pursued, that he could not sit down, without giving his thanks to the two great men who had piloted the vessel of state through a stormy and turbulent sea, with so much manly perseverance and immoveable firmness, that the present age could not but look up to them with astonishment; nor was it possible for posterity to consider their conduct, without feeling an equal mixture of esteem and admiration.

The Bishop of *Gloucester* spoke with similar expressions of feeling respecting the 13th Charles 2, and the penal statutes referred to in the enacting clause of that Act, the objects of which, his lordship remarked, went merely to enforce obedience to the rules and forms of the Church of England in the ecclesiastics of that Church.

Earl *Stanhope* consented to let his amendment be negatived, declaring he was satisfied with having brought the subject under their consideration, and desiring it to be remembered that no one of the rev. prelates, who had spoken on the occasion, had attempted to defend or justify the statutes to which he had referred.

The Earl of *Radnor* moved as an amendment to the proviso, enabling the Regent to grant the rank of peerage to such of his Majesty's royal issue as should have attained the full age of twenty-one, to add the words, "and shall be actually resident in Great Britain."

Viscount *Stormont* said, he hoped by the amendment, it was not proposed to restrain the Regent from granting a peerage to any one of the royal family as should be of full age, who might be employed abroad in a military capacity, in the public service.

The Committee divided on the amendment:—Contents, 58; Not-contents, 68.

The Marquis of *Carmarthen* moved, that, "all the palaces, houses, gardens, parks, &c. now possessed by his Majesty, or shall be employed by or for him, during his indisposition, shall be under the control and management of her Majesty," which, after some conversation, passed in the affirmative. He next moved, that "all the royal offspring under the age of twenty-one, should be under the care of her Majesty," which also passed in the affirmative. The chairman then reported progress, and the House adjourned.

Feb. 18. Their Lordships went again into a Commitee on the Regency Bill. On the clause being read, respecting the King's Household,

Lord *Rawdon* rose, and after stating to the Committee that the clause giving her Majesty full power over the King's Household, was setting up an authority in direct opposition to that of the person holding the executive government, reminded their lordships, that they with whom he acted had objected to the restriction on which that clause was founded, when it had been first proposed. That its object since had been explained, and that now they knew what that object was, there objections were substantiated. He recapitulated the three heads of argument, that had in former debates been advanced in support of it. The keeping the officers in their situations, separate from the control of the Regent, could not add any thing to the comfort of his Majesty, in his present unhappy situation, while the depriving the Regent of the attendance of those officers was taking away from that splendour which was so necessary to his dignity. He addressed not his argument to their lordships, or to philosophers; they knew that obedience was due to government from those who were governed, whether the person of the governor was surrounded with splendour or not; but the multitude felt differently; it was necessary to work upon their prejudices, and to procure subordination and respect by the dazzling lustre of appearances. It had been said, that although the household was withheld from the Regent, yet a substitute was to be provided suitable to the rank and importance of his office; but he well knew

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the feelings of his Royal Highness upon that subject, and it was a matter of deep regret to him, that his taking upon himself the government of the kingdom during his Majesty's illness, was to throw a new weight upon the nation. This proposition was erroneous in every point of view. During his Majesty's illness the question resulted, would they have a government or not? The Bill said, what the people felt, that a government was necessary, but how could a government go on with the combination in the Bill, the provisions of which had proceeded from a false but generous principle of attachment to the sovereign? No part of it was in his mind more reprehensible than the clauses respecting the Queen. They were going to give her Majesty a power and government of money to an extent she had never known before, and which, of course, was liable to great abuse. The Prince had an evident interest in the due management of the several concerns intrusted to the Queen, but her Majesty had no interest whatever. His lordship concluded with moving to insert after the words, "also the direction and government of" words to the following effect, "such part of his Majesty's household as shall be deemed necessary to attend on his Majesty during his illness."

The Earl of *Hopetoun* objected to the amendment, and adduced a variety of arguments to show, that it tended to introduce a new arrangement, totally foreign from that which the House had already discussed and argued, and such as in all probability they would not be disposed to make. The whole Bill was founded on the principle, that it was a temporary measure, calculated to answer a temporary purpose; whereas it was obvious, that the proposed amendment proceeded on a permanent principle. That his Majesty's indisposition was to continue long, was neither consonant to their lordships feelings, nor to the feelings of the country. It was, in his mind, improper to separate the officers of the household, and divide them into classes. He had no objection to giving the Regent not only all the necessary authority for carrying on the government, but all the splendour and brilliancy that the dignity of the high office of Regent required. They were to recollect, that they were putting the Prince's hand on the chair of state, not placing his foot upon the throne. It was said, that what was given to the Queen was taken from the government. He denied the truth of the assertion, and contended that the idea of influence in either House of Parliament attending the nomination of places in the Household, was unparliamentary, and that the government that depended on such a petty and circumscribed support, as that paltry pittance of influence, must be a poor and miserable government indeed.

The Earl of *Radnor* said, the noble lord had not explained the whole extent of his amendment, and till he heard what it was to lead to, it was impossible for him to say, whether he could support it or not.

Lord *Rawdon* said, his object was to follow the amendment, if carried, with motions "seriatim" separating those officers, who could not exercise any present functions of their offices, from the control and appointment of her Majesty.

The Earl of *Radnor* said, the noble lord's amendment did not entirely meet his ideas, and therefore he would explain what he meant; an explanation which he should give without designing offence to any individual. He took the clause to be neither more nor less, than conferring on the Queen a direct and notorious influence in both Houses of Parliament. He had voted against the famous India Bill of 1783, because he conceived it to go to the creation of a powerful influence, which if united with the Crown would have made it too strong, and if exercised against it, would have rendered it too weak. In speaking of the present situation of affairs, he would use some plain, strong words, but they should be but few. If the Prince of Wales was affectionate to his father, and acted wisely, he would continue, as much as might be, the present measures and the present ministry. That was the advice he would give him as a counsellor; but speaking as a member of parliament, if the Prince thought proper to exercise that discretion with which he would be constitutionally invested, and should choose to change the ministry, he would not be one to establish a possibility of hampering his measures.

Viscount *Stormont* conceived that the amendment was such as the noble earl could not oppose, because it went to nothing specific, but only opened the door for farther amendments.

The Earl of *Radnor* read a clause which he had drawn up and meant to introduce, the object of which was, among other provisions, to separate the nomination and appointment of the noble lords with

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white staves from the control of the Queen, but to render them subservient to her Majesty's order.

The Duke of *Richmond* objected to lord Rawdon's amendment, because the noble lord had not explained the whole that it was intended to go to. If the amendment were agreed to, they necessarily ought to move that the great officers of the household should be removeable by the Regent. He reminded the Committee, that his Majesty was to be considered as King of this country, notwithstanding his present situation, and that it ought to be remembered that under the present Bill, the Prince of Wales was the son of the King acting as Regent, but not the king; a distinction which the Prince ought to feel in every step he took. As Prince of Wales and Regent, he ought undoubtedly to have great splendour, but not the same as the King himself. Till he knew how the noble lord who spoke first, meant the great officers of the household should be removed, he could not argue against his proposition; but if the proposition contained in the clause just read by the noble earl was substantially the same, one answer would do for both. If the control were removed over those offices, they removed the responsibility, and it was necessary that the responsibility should remain.

Lord *Rawdon* said, the noble earl had shown him his clause, which he thought would completely answer the object of what he had intended for his second motion, and would obviate the charge of influence; he therefore would substitute the noble earl's clause, as the subject of his intended motion, if the amendment should be carried. His lordship alluded to the possible conjuncture of affairs that might arise from the state of Europe to make negociations with foreign powers necessary, and put the case, that the influence of the household might be exercised adversely to the existing government, in the midst of a proceeding deemed essential to the safety and security of the country, which, it might tend to check and prevent.

The Duke of *Richmond* treated the idea of a parliamentary influence resulting from the placing the household under the power and control of the Queen as a matter too insignificant to merit much notice. His grace alluded to the two former Regency Bills, and contended, that the present Bill gave the Regent infinitely larger powers, than the Regent under either of the two former bills would have possessed.

Viscount *Stormont* supported the amendment. So far from its appearing to him a paltry subject and not likely to cripple government, he meant to go on the ground of its crippling government most dangerously and fundamentally. In former Regency Bills, he saw the whole executive powers of government given. It was not the attempt of men in those times to curtail the authority of the Regent, because they knew the whole powers of the Crown were necessary to carry on government. It was said, that in former Regency Bills, the power was divided between the Regent and a council, but it was forgot, that all the princes of the blood were in that council. Had the example of former Regency Bills been followed, he was free to say, he should have opposed it, because he thought those Bills liable to strong objection; but so far was he from giving the noble duke and his colleagues credit for not having followed the example before them, he thought, unwise and impolitic as those Regency bills had been, they were more wise and more politic than the present. When they instituted a weak government, they knew not the extent of the mischiefs that might ensue. His lordship declared he did not fear any thing from open, bold ambition, but he dreaded every thing from that dark, mean ambition, which worked like a mole under ground, undermining all above it, and attempting by anticipation to weaken that government in which it was not to have a share, and to cripple what it dared not oppose. The patronage of the household, he said, extended to all the offices, and was not less than 100,000*l.* a year, which amounted to more than all the offices suppressed by the Bill of 1782. It was an influence that was not trifling, but extending far and wide, and, as the promoters of it themselves thought, of most pernicious consequence. He reprobated the idea of appointing great officers of the realm, who could be of no service to the King during his present situation, to be under the Queen's control, because her Majesty was entrusted with the care of the King's person. He alluded to the Lord Chancellor's celebrated speech a few weeks since, when the resolution, on which the clause was founded, was under consideration, and said it was rather an address to the public than to that House. Those

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great officers of the household, he said, were officers of state, annexed rather to the kingly office, than to the person of the King. Did any of those officers attend the King, except when he appeared in public the representative of majesty? It was an extraordinary mode of keeping up the majesty of the Crown, by not suffering the Regent to have the state that customarily surrounded the Crown. What was the reason that the Lord Lieutenant of Ireland always appeared with so much splendour? It was to signify the greatness and majesty of the King he represented; If the multitude were to see the Regent going to the House in his father's state coach, drawn by the cream-coloured horses, they would cry, "There he goes in his father's coach; we hope we shall soon see the father himself there." The father's image would recall the memory of the father. It was true, the Regent would make as great a figure as the king of Prussia, except on certain particular occasions. But the cases were not similar. In Prussia, which was a military government, the most captivating and politic appearance the sovereign had to maintain was rather that of a camp than a court. The case was different with us; in a great manufacturing country like this, splendour and outside show were absolutely necessary. Nor was it for the Prince that it was asked; to him the situation of Regent was a situation of painful pre-eminence and royal servitude; the object was, to have the splendour and ostentation which pleased the multitude. The Lord Steward and Lord Chamberlain were great officers of the realm, always members of the privy council, and constantly of that select council in which the King was to exercise the greatest prerogative of the Crown, that of mercy. The office of the Lord Steward was an office of jurisdiction. He had ever understood, the King was the fountain of office. The Bill made the Queen the fountain of office, and yet some noble lords had said it was constitutional. There was an impetuosity in the present administration that bore down every barrier of the constitution. He enumerated the various offices under the control of the Lord Chamberlain, mentioning the Board of Works, the Jewel-office, &c. Even the Master of the Ceremonies would be under the Queen, and therefore if the Regent had occasion to receive a foreign ambassador, he must send to her Majesty and borrow sir Clement Cotterel for the day! It had been said in another quarter, that the Queen could have no political views. Her Majesty, he well knew, deserved veneration, and he would say of her, what the constitution directed them to say of the King, that she could do no wrong, but her advisers might, who had power without responsibility. Her Majesty would have flatterers about her. Cabal and artifice would find their way into her house, since he knew of nothing in the air of Kew palace that had the power to keep away the vermin that were always about a court.

Lord *Hawkesbury* said, that all the powers given by former regency bills, where the regent was to be hampered with a council, by no means enabled a regent to set up so strong a government as he could do, under the present Bill, where he stood free and unfettered, excepting only by a few restrictions. With regard to the opinion of a noble lord, that all governments were nothing more than a combination of precedents; in absolute and despotic governments, it was not always so, but in a free government like ours, sure he was the security of obedience, and what enabled the few to govern the many was, the sense the people entertained of their own power, exercised through the medium of their representatives in parliament; and so the best writers on the constitution had defined it. With regard to the question of the household, unless their Lordships altered the whole system of his Majesty's family, they could not put the household on any other situation. The household in fact, was under the operation of the clause, to be the household of her Majesty. It was to be carried on in the house in which the Queen lived; and would their Lordships say, that the Queen ought not to have the control over that household? He denied that the Lord Chamberlain and Lord Steward were mere officers of state, never on duty, but when the King appeared in public as the representative of majesty. They had many other essential duties. Had they forgot a noble earl (Talbot), who, by his own management and economy reformed much of the household and saved a considerable sum to the nation? Besides, by the Bill of 1782, the Lords of the Treasury were expressly directed to issue no money for the payment of the household, but to the Lord Chamberlain and Lord Steward, or according to their warrants. To put

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those officers therefore, under any other person, would be wronging her Majesty in her household. The whole amount of the household offices, his lordship said, was about 100,000*l*., of which no more than 33,000*l*. related to officers having seats in either House of parliament. Would the country deny such an additional expense as 33,000*l*. for a short time only, to support the dignity of the Regent, rather than suffer his Majesty to be stript of all his household officers? Or was the administration, that was to be, afraid of the operation of the influence arising from so paltry a sum?

Earl *Fauconberg* spoke of her Majesty's character in terms of the most ardent zeal and the most marked respect; and particularly expressed his astonishment, that such a moment as the present, when her Majesty's breast might well be supposed to be occupied by the most poignant feelings, should be chosen for insinuating, that her Majesty could be capable of countenancing a political faction, whose object it would be to counteract and embarrass her son's government. What was there, that could possibly be supposed to warp her Majesty's amiable disposition, and induce her to act in a manner, at once so unnatural and so inconsistent with her own conduct hitherto? It appeared to him to be a circumstance so improbable that he had heard it seriously stated with an equal mixture of regret and astonishment. His Lordship took notice of various arguments that had been urged to prove, that the lords of the bedchamber were capable of being bought. He declared, there was but one description of peers, who were fit to be lords of the bedchamber against whom no suspicion of the kind would lie, and that was the Roman Catholic peers. He repelled the suspicions suggested against the parliamentary independence of the various officers of the household, and rejoiced in having had it in his power to support the measures of one of the ablest and best ministers that perhaps ever had been at the head of affairs.

The Earl of *Carlisle* said, it was rather extraordinary, that those who sat near him should so often have occasion to declare that it was not their wish to take any thing from the splendour and decoration of his Majesty, that was now necessary. Their wish was merely to borrow that splendour and decoration which was not necessary for the King in his present unfortunate situation, and lend it to the Regent, to whose situation and condition it was necessary. When the King became well, it would return to him. A noble lord had talked of the difference between the power of a regent, under the former bills of regency, and under a bill with a few restrictions; let the noble lord recollect, that in the former regency bills no one power of the Crown was suspended, and then let him look to the present Bill, and say, what possible restrictions could be added to cripple and weaken the government.

Lord *Sydney* said, there were many restrictions that might have been added, of ten times the tendency to cripple the government, compared to those contained in the Bill. The Regent was left with all the great power of government, and there was not in his opinion the smallest ground for asserting that the Bill would really weaken his government. Let them consider who the Regent was? a Prince of Wales of high character, of amiable manners, greatly beloved, and in the flower and vigour of his youth. The restrictions imposed were, it was well known, only provided with a view to his Majesty's temporary illness. If the household were not put under her Majesty's control, though the Regent might not wish, himself, to change the great officers of the household, in this evergreen age, who knew but some person about him might persuade him to do so. Political speculatists were governed by their hopes, and would look forward as long as they had existence. There was now no man so old and decriped, no man but who, sans teeth, sans eyes, sans ears, sans every thing, would hobble on, and not merely court his favour by political cringing, but do so by affecting to partake the youthful pleasures of the Prince. The noble lord's amendment, as explained by his lordship, shocked him. Did they recollect his Majesty's present situation? That he had been declared convalescent in a report signed by Dr. Warren. Though his Majesty, therefore, might not yet be in a state to take upon himself the conduct of public business, he might be able to indulge himself with the private conversation of those he had been accustomed to converse with. Suppose he should ask for a duke of Roxburgh, or an earl of Winchelsea. What answer must be made? He must be told they were gone—some stern Cato had removed them from their offices! Would

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their lordships hear such a case stated, and hear it with patience? Were the lords of the bedchamber to be treated as a body of Jannisaries? He remembered in his time, the bedchamber filled with some of the highest characters of the country. At present the lords of his Majesty's bedchamber were most respectable, and yet it was supposed, that they were to be influenced by persons out of office.—He took notice of lord Stormont's mention of her Majesty, and said, he always doubted, in proportion as the noble viscount dealt in expressions of respect; he had, in fact, began to tremble when the noble viscount had said, what the law of the constitution obliged him to say of his Majesty, viz. that the Queen could do no wrong, and the noble lord had verified his fears, by instantly adding, but her advisers might; which was the best way to get off. He expatiated on the Queen's character, and asked, if it was likely, that a woman who had been twenty-seven years among us, and never meddled with politics, would change her house, which was and must be a house of distress, as long as the King's illness continued, into a house of faction, for the purpose of opposing her own son. He had as much respect for his Royal Highness as any one else, but he did not see that the state of a regent ought to be exactly the same as the state of a king. He asked, if any one had heard in the reign of George 2, when the Prince of Wales was regent, that he had the attendance of the Lord Steward? With regard to the wish being only to borrow some of the splendour and decoration of the King to lend it to the Regent; he said, if he were to be ill, and during his illness any thing that belonged to him should be borrowed without his consent, he should think it was something very like taking it away.

After some further conversation, the Committee divided on the amendment: Contents, 66; Not-contents, 89. The clause was then agreed to. The Chairman reported progress, and the House adjourned.

Notification to both Houses of the King's recovery.] Feb. 19. As soon as prayers were over,

The *Lord Chancellor* left the wool sack, and informed the House, that since his Majesty's physicians had pronounced him to be in a state of convalescence, the accounts of his Majesty's progressive improvement had increased from day to day, and the intelligence from Kew was that day so favourable, that he conceived every noble lord would agree with him in acknowledging, that it would be indecent and improper to go on with the proceedings in which they were engaged, under the present circumstances, when the principle of the Bill might possibly be entirely done away. Every one of their lordships, he was persuaded, would entertain the same sentiment on the subject, and amidst the general joy that the reasonable expectation of his Majesty's speedy return must occasion, he had no doubt that the House would agree with him, that it would be better to wait a few days, to see what progress towards a perfect and complete recovery was made in his Majesty's health, before they proceeded further with the Bill appointing a regency. Congratulating their lordships and the country therefore on the favourable prospect of that event, to which the wishes and prayers of all his Majesty's subjects were directed, he would humbly submit to their lordships the propriety of the Committee's being adjourned till Tuesday next, and by his Majesty's then situation in point of health, their lordships would be enabled to judge how far it would be necessary or proper to go on with the proceeding.

Viscount *Stormont* said, he rose with more satisfaction, and with a degree of joy nearer to his heart, than he had ever felt in any period of his life. He rejoiced that they had now a reasonable ground of hope for his Majesty's speedy recovery, an event which he the more rejoiced in, as he considered it as likely to secure the salvation of the country. Regencies were at all times expedients which the necessity of the case might require, but which no man who knew any thing of political effects would wish that occasion should arise to create. With regard to the present Regency Bill, he must take the liberty of stating, that he considered it as an aggravation of the calamity with which the country had been afflicted; he rejoiced therefore for him, who, if the favourable prospect that had been opened to them by the learned lord, should be realized, would find himself delivered from the hard duty which the necessity of the case would have imposed on him, and which nothing but a necessity so urgent, could have induced him to undertake. Even under the difficult and embarrassing circumstances prescribed by the present Bill,

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he was convinced the Prince of Wales would have shown at least an earnest of that political wisdom and constitutional zeal, which might be expected from him, when he should, by the course of nature, sit upon the throne. It was reasonable to expect, that his eyes would be closed long before that time arrived, but there were lords present who might live to see the day to which he alluded, and who he had no doubt would feel the benefit, and acknowledge the truth of his prediction. His lordship said, he would sit down, making only this single observation, that those who had the government of the country in their hands, who knew the real state and pressure of affairs both at home and abroad, much better than they could pretend to do, must take upon themselves to answer for every inconvenience that might arise from the present or any future delay. Considering, therefore, that this was fair to suggest at that moment, he should cheerfully give his consent to the motion of the learned lord, and to every delay that might be proposed.

The Duke of *York* said:—I trust your lordships will do me the justice to believe, that no person in the House could feel equal pleasure with myself, from the favourable account which the noble lord on the woolsack has given, and the motion he has made to the House, in which I entirely concur. I should have had great satisfaction in making the same communication to the House, if I had been enabled to do it from any certain information. I thought it my duty yesterday, upon the favourable reports given to the public, to request to be admitted to his Majesty's person. From reasons, very justifiable I have no doubt, it was not thought proper that I should have that satisfaction. From the knowledge I have of my royal brother's sentiments, though I can have had no immediate communication with him upon the subject of this motion, I am convinced that he will feel equal, if not greater pleasure than myself, at the hopes of his Majesty's recovery; as it must relieve him from the embarrassment of the situation in which the Bill would have placed him, which nothing but a strong sense of his duty to the public would have induced him to undertake.

The Committee on the Regency Bill was adjourned to Tuesday, and the House rose.

Feb. 24. On the order of the day being read for going into a Committee on the Regency Bill,

The *Lord Chancellor* left the woolsack, and said, the accounts of the progress that his Majesty made towards recovery, continued to be so favourable from day to day, that he presumed the same reasons that before actuated their lordships, and induced them to adjourn last Tuesday, would incline them to adjourn for a few days longer. He should therefore move to adjourn till Monday.

The Duke of *Norfolk* said, that although they had not any regular evidence before them to contradict the testimony of his Majesty's physicians delivered formerly upon their examination, yet the account of his Majesty's convalescence came so well authenticated from the noble and learned lord, who was known to have had personal interviews with his Majesty, that no doubt could be entertained of the fact. He should be happy to hear, however, what were the present appearances of his Majesty's health, and if his Majesty should continue in the same progressive state of amendment, though not able to take upon himself the actual business of the regal station, what steps would be to be pursued after the period of adjournment proposed, and whether another examination of his Majesty's physicians would take place.

The *Lord Chancellor* said, he had no difficulty in rising to answer the questions of the noble duke, that as far as his apprehension and judgment (not being a physician, nor conversant with such subjects) could enable him to form an opinion of his Majesty's understanding, the posture of his Majesty's mind appeared to be clear and distinct. Perhaps, his lordship said, he was the best person to put such a question to, because, not having the opportunity of being near his Majesty's person, he had apprehended more for his Majesty, than it now appeared had been absolutely necessary; and thence it was, that he had from time to time received much consolation from the reports of those most competent to give him information upon the subject. With respect to the late interviews that his Majesty had commanded him to have with him, he had been in his presence at one time for an hour and a quarter, and that day for a full hour; during both which times he had found the posture of his Majesty's mind to be clear and distinct; so much so, that he appeared perfectly capable of conversing on any subject that might be proposed to him.

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The House adjourned to Monday.

March 2. The order of the day being read for the House to resolve itself into a committee on the Regency bill,

The *Lord Chancellor* rose and said, that the accounts of his Majesty's health being every day more and more favourable, he should content himself with reminding their lordships, that their late adjournments had been proposed on the principle of bringing the pressure of public affairs as gradually as possible under his Majesty's view, and therefore on the same principle he should move, "That the House should adjourn to Thursday."

Their lordships accordingly adjourned.

March 5. The order of the day being read for going into a committee on the Regency bill,

The *Lord Chancellor* said, that their lordships had delayed proceeding with the order that had been just read, from time to time, under the idea that it was proper to afford his Majesty as much space for recovery, before he engaged in business, as could be consistent with the pressure of public affairs. Since their last adjournment, his Majesty found his health so much established, that he was in hopes of communicating to that House, on Tuesday next, such public business as was necessary to be laid before them for their consideration and dispatch. He should therefore move, that the order be further adjourned to Tuesday next.

The House adjourned to Tuesday.

The Lords Commissioners Speech on the King's Recovery.] March 10. The Lords met pursuant to adjournment, when a commission from his Majesty, appointing a number of the privy counsellors, or any three of them, in his Majesty's name, to deliver to both Houses of Parliament a speech from his Majesty, was read. The Commons were summoned to attend, and being come to the bar, the Lord Chancellor, as one of the commissioners, spoke as follows:

"My lords and gentlemen;

"His Majesty not thinking fit to be present here this day in his royal person, has been pleased to cause a commission to be issued under his great seal, authorizing and commanding the commissioners who are appointed by former letters patent to hold this parliament, to open and declare certain farther causes for holding the same; which commission you will now hear read."

And the same being read accordingly, the Lord Chancellor then said,

"My Lords and Gentlemen;

"In obedience to his Majesty's commands, and by virtue of both commissions already mentioned to you (one of which has now been read) we proceed to lay before you such farther matter as his Majesty has judged proper to be now communicated to his parliament.

"His Majesty being, by the blessing of Providence, happily recovered from the severe indisposition with which he has been afflicted, and being enabled to attend to the public affairs of his kingdom, has commanded us to convey to you his warmest acknowledgments for the additional proofs which you have given of your affectionate attachment to his person, and of your zealous concern for the honour, and interests of his crown, and the security and good government of his dominions.

"The interruption which has necessarily been occasioned to the public business, will, his Majesty doubts not, afford you an additional incitement to apply yourselves, with as little delay as possible, to the different objects of national concern which require your attention.

"His Majesty has likewise ordered us to acquaint you that, since the close of the last session, he has concluded a treaty of defensive alliance with his good brother the king of Prussia, copies of which will be laid before you; that his Majesty's endeavours were employed during the last summer in conjunction with his allies, in order to prevent, as much as possible, the extension of hostilities in the North, and to manifest his desire of effecting a general pacification; that no opportunity will be neglected, on his part, to promote this salutary object; and that he has, in the mean time, the satisfaction of receiving, from all foreign courts, continued assurances of their friendly dispositions to this country.

"Gentlemen of the House of Commons;

"We are commanded by his Majesty to acquaint you, that the estimates for the current year will forthwith be laid before you; and that he is persuaded of your readiness to make the necessary provisions for the several branches of the public service.

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"My Lords and Gentlemen;

"We have it particularly in charge from his Majesty to assure you, that you cannot so effectually meet the most earnest wish of his Majesty's heart, as by persevering in your uniform exertions for the public welfare, and by improving every occasion to promote the prosperity of his faithful people, from whom his Majesty has received such repeated and affecting marks of invariable zeal, loyalty, and attachment, and whose happiness he must ever consider as inseparable from his own."

Debate in the Lords on the Address upon the King's Recovery.] After the Commons had withdrawn, the Lord Chancellor again read the speech from the woolsack.

The Earl of *Chesterfield* said, that he felt it peculiarly honourable to himself to be permitted to move an address, which must be so congenial to the feelings of every noble lord. The emotions of joy on the happy recovery of his Majesty were so generally felt, that it would not be necessary for him to urge a single argument for the motion which he was about to make. In consequence of the King's distressing malady their lordships had been occupied for a considerable time in making provision for the executive government, but that Bill, in which they had proceeded so far, was now, thank Heaven, rendered unnecessary. They had their King again; and therefore there could not be, in his mind, any hesitation on the measure now to be taken. His lordship then moved the following Address:

"Most Gracious Sovereign;

"We your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, in Parliament assembled, beg leave to approach your throne, and return our most humble thanks for the gracious Speech which your Majesty has commanded to be made to both Houses of Parliament.

"We most sincerely congratulate your Majesty on your happy recovery from your late indisposition, and upon your being again enabled to attend to the urgent concerns of your kingdoms, and to exercise personally your royal authority.

"We acknowledge, with all possible thankfulness, the goodness of Almighty God, in attending to the prayers of a loyal, affectionate and afflicted people, and in restoring your Majesty to the wishes of your faithful subjects; and we most earnestly hope that the blessing of your Majesty's just and benevolent government may long be continued to us.

"We humbly offer to your Majesty our most sincere expressions of gratitude for your gracious acceptance of our best endeavours to prove our zealous and affectionate attachment to your person, and our anxious concern for the honour and interests of your crown, and the security and good government of your dominions.

"Your Majesty may be assured that we will without delay apply ourselves to the consideration of the different objects of national concern which require our attention.

"We most humbly thank your Majesty for the orders which you have been graciously pleased to give for laying before this House a copy of the treaty of defensive alliance which your Majesty has concluded with the king of Prussia.

"We are sensible that your Majesty's endeavours, in conjunction with your allies, to prevent as much as possible the extension of hostilities in the north of Europe, and to contribute to the restoration of general tranquillity, are the natural result of your Majesty's known wisdom and humanity; and we have a full reliance on the continuance of your exertions towards promoting so salutary an object.

"We hear with satisfaction that your Majesty continues to receive from all foreign courts the strongest assurances of their friendly disposition towards this country.

"We are conscious, Sir, that we ensure to ourselves the approbation of your Majesty, when we attend to the public welfare, and to the advancement of the prosperity of your people, whose zeal, loyalty, and attachment to your Majesty, are the natural and spontaneous effects of their uniform experience of your Majesty's virtues, and of the constant blessings derived from your mild and auspicious government."

Lord *Cathcart* said, he considered as peculiarly flattering to himself, the circumstance of seconding the motion for the Address; it was a distinction of which, on such a day, any noble lord might be proud. Though he knew it to be unnecessary to say a syllable, yet it was impossible to repress the emotions of ecstasy with which the heart was pregnant upon so joyful an occasion. The emotions of gratitude to the Divine Being for the mercy extended to the nation, were cer-

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tainly beyond his power to describe. To estimate them aright, noble lords must look back and reflect on the sorrow which they felt on the first rumour of his Majesty's illness. They must reflect on the dangers which they had avoided. The national bark had been tossed on a most tempestuous sea, threatening every instant to dash on the rocks, and from which nothing but the skill and steadiness of their able pilot had preserved them.

Earl *Stanhope* said, that while he, in common with every man, acknowledged the goodness of Providence in the restoration of his Majesty, a doubt occurred as to the parliamentary proceeding now suggested. The House had come to an unanimous resolution, that his Majesty was rendered incapable, by illness, from executing the duties of his office; and the two Houses claimed a right, and in consequence of that right, proceeded to make provision for supplying the deficiency in the executive government. A bill was in progress through the House, in which there was a clause, specifying the manner in which his Majesty was to resume the reins of government. The Queen and her council were to decide when his Majesty should be capable of re-assuming his government. Now, the two Houses having first, by the examination of physicians, ascertained the fact, that the King was incapable, and having by a clause in the bill, declared their sense as to the manner in which the nation should be satisfied of the King's restored powers, he wished to know, whether the present measure was strictly parliamentary? He had no hesitation in giving full confidence as to the fact of his Majesty's restored health; but it was essential that they should act strictly in consonance to order. If the King could declare himself well, and of himself re-assume the reigns of government, why introduce the clause into the bill by which the Queen and her council must declare his capacity before he could re-assume his authority. If that clause was right, surely the present measure was wrong. He urged the House to avoid rashness and precipitation; and he wished the present motion might be deferred just only for sufficient time to enable the House to do away the resolution that stood on their Journals.

The *Lord Chancellor* could not hear without the utmost surprise, the noble earl suggesting a doubt concerning the propriety of the measure. With respect to the clause introduced into the bill, the noble earl was mistaken as to the principle on which it was founded, and also as to its tendency. In the first place, surely no declaration of the two Houses on the occasion of the King's illness could take from him the right of governing; nor could any clause in any such bill interrupt his reassumption of his powers on the restoration of his health. Neither was the clause in question, nor the bill itself, (a bill, all the passages of which he wished to bury in everlasting oblivion, and he took this opportunity to say, he trusted, once for all, that there never would be provocation to recollect one passage of it, since no one passage in it was drawn in distrust of any of the branches of the royal family) founded on the examination of the physicians. The measure was founded on the fact of the King's illness; a fact of which parliament had the best testimony, namely that the king neither met the parliament, nor issued any commission for the duty to be executed by others, as it had been done this day. It was his peculiar duty, from his office, to take the King's pleasure on the subject; and he having communicated to parliament, after the last prorogation, that no commission had been issued, the two Houses properly took upon themselves the task of providing for the emergency; then, in framing a temporary government, they introduced the clause alluded to by the noble earl, as they thought it right that those who were to have the government entrusted to them, might have it definitely determined, and that there might be no doubt on the means in which his Majesty was to re-assume the reins on his restoration to health.

The Address was agreed to *nem. dis.*

The King's Answer to the Lords' Address.] To the Address of the Lord's his Majesty returned this Answer:

"My Lords,

"This very dutiful and affectionate Address calls forth my warmest thanks; the sentiments expressed in it have so universally prevailed among my loving subjects, that they must, if possible, increase my solicitude for the prosperity and happiness of this my native country."

Debate in the Commons on the Address upon the King's Recovery.] The Speaker having reported the Lords Commissioners Speech to the House,

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Earl *Gower* rose and said, he was so conscious of his inability to speak in a public assembly, that had it not been for the joy and happiness of the occasion, he could not have ventured to trouble the House; but as the joy of the present occasion was a joy not only felt by parliament, but by the whole nation, he was under no embarrassment in rising to congratulate the country on the happy circumstance of his Majesty's recovery. They had, for five months, been in the state of an interregnum, from which they were now most fortunately relieved. Their late melancholy situation and the present joyous occasion might be compared to those of a ship which had been dismasted by a sudden storm, but having its rudder sound and entire, by sailing right forward had happily got into harbour. He therefore congratulated his fellow subjects on the pleasing prospect of continuing to live under the happiest and the best of governments. With regard to the other topics alluded to in the Speech, weighty and important as they were, considered with a view to their connexion with the great interests of the country, they appeared to him to be light and trivial compared to the joy of the present occasion, and therefore he would not detain the House by insisting upon any one of them. His lordship then moved the following Address:

"Most Gracious Sovereign;

"We Your Majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, beg leave to return your Majesty our humble thanks for the Speech which has been delivered by your Majesty's command to both Houses of Parliament; and to congratulate your Majesty on the happy event of your Majesty's recovery from your late indisposition, and on your being enabled to attend to the public affairs of your kingdoms.

"We acknowledge, with the most heartfelt joy and gratitude, the goodness of Almighty God in restoring your Majesty to the wishes and prayers of your faithful subjects; and earnestly hope that your Majesty may long continue to rule over an affectionate and grateful people.

"Permit us to lay before your Majesty our dutiful acknowledgments of the favourable sense which your Majesty entertains of our affectionate attachment to your Majesty's person, and of our concern for the honour and interest of your crown, and the security and good government of your dominions.

"It will be our constant endeavour to merit your Majesty's good opinion, by labouring to promote the happiness of your people; and we will apply ourselves, with as little delay as possible, to the different objects of national concern which require our attention.

"We beseech your Majesty to accept our humble thanks for being graciously pleased to order a copy of the Treaty of Defensive Alliance between your Majesty and the King of Prussia to be laid before us, and to be assured that we are deeply sensible of your Majesty's just regard to the interests of your subjects, and the peace of Europe, in your endeavours to prevent the extension of hostilities in the North, and your desire to effect a general pacification. We learn with great satisfaction, that your Majesty continues to receive assurances of the favourable disposition of the other courts of Europe towards this country.

"We shall not fail to proceed, with chearfulness and dispatch, to make the necessary provision for the several branches of the public service.

"We should be wanting to ourselves, and to those whom we represent, if we did not testify, in the warmest manner, the gratitude with which we observe the paternal expressions of your Majesty's regard for the happiness of your people, whose invariable sentiments of zeal, loyalty, and attachment to your Majesty are animated and confirmed by the uniform experience of your Majesty's virtues, and by the sense of the blessings which they enjoy under your Majesty's auspicious government."

Mr. *Yorke* rose to second the address. He began with apologizing for his incompetency to do justice to any subject, which required the exertion of great parliamentary talents, and declared, that had such been the case at present he certainly should not have presumed to have intruded himself upon the House; but the fact being different, the apprehensions he might otherwise have entertained, were, he owned, considerably diminished. Called upon as they were, to vote an address to his Majesty, on his recovery from a severe indisposition, which had impressed his subjects with the most melancholy sensations, every man must feel the sincerest joy, and the most heartfelt satisfaction. He was unwilling, he said, to

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allude to any thing that had passed in former debates, that could revive any difference of opinion, or tend to prevent that unanimity which ought to distinguish the vote of the House on that day; but, he trusted that he should not be accused of any disposition to disturb the harmony which every man must wish should prevail on such an occasion, by reminding the House, that they had reason to congratulate themselves on their having proceeded with more caution than expedition, and on the steady and zealous attention which they had uniformly shown equally to maintain the dignity of the crown, and to preserve the rights of the people. It must also be a great source of exultation to them, to find that his Majesty was able on his return to the exercise of the duties of his office, not only to approve, but likewise to applaud their proceedings.—It was, he thought, an auspicious circumstance, that the speech which announced his Majesty's happy recovery, should be the first also to make mention of a most important foreign alliance. Nothing on the subject of popular alliances had, he believed, for some years been stated in a speech from the throne; not that he meant to impute any blame on that account to the immediate predecessors in office of the right hon. gentleman below him, or to any ministers during any part of the period to which he alluded, but merely to observe, that the alliance with the King of Prussia, as well as the present flourishing state of our commerce and credit, was, in his opinion, a proof not only of the wisdom and talents of his right hon. friend, but of the confidence which was reposed in him by foreign nations, as well as by the people of this country. He hoped that no objection would be made to that part of the speech which he had just mentioned, and his reason for hoping it was, that when the right hon. gentleman, whom he then saw in his place, had applauded the measures of his Majesty's ministers respecting Holland, the right hon. gentleman had expressly stated that he approved of those measures, under the expectation that ministers would not rest there, but would follow up the restoration of the Prince of Orange to his authority, with such alliances with other foreign powers, as should best conduce to strengthen and promote the interests of Great Britain.

Mr. *Fox* observed, that he was far, very far, indeed, from rising for the purpose of preventing the unanimous vote of the House, or of disturbing in any degree whatever the harmony which all must eagerly desire to see prevail on the present joyful occasion. He declared, that he trusted and hoped that the address would pass *nemine contradicente;* but, he could not avoid remarking that the hon. gentleman who spoke last, seemed to have taken considerable pains to prevent, if it were possible, that unanimity and harmony so generally to be desired on such an occasion as the present, and to create a difference of opinion. For himself he saw nothing in his Majesty's speech which seemed liable to objection; nor was there any part of the address open to an exception. He had listened to the noble lord who moved the address with great attention, and he had never listened to a mover of an address with more satisfaction. The noble lord had not only moved it with great ability, but, if he would allow him to say so, in a manner which did more honour to his heart than his head. The noble lord had moved it like a man of understanding, because he had expressed the feelings of a man, and the feelings of a loyal and faithful subject to his sovereign: he had moved the address with as much elegance as he had ever witnessed, and, in his mind, with as much judgment. The noble lord had judiciously passed over the other topics stated in the speech, because, undoubtedly, every man must feel that his Majesty's recovery was so far the paramount topic, that all others, weighty and important as they were in themselves, appeared light and trivial in comparison with it. The hon. gentleman, on the other hand, who had seconded the address, had thought proper to mingle with the congratulations of that House, on the happy recovery of the sovereign, praise and panegyric on the personal conduct of the king's minister. On such a day as that, at least, Mr. Fox said, he conceived that the Chancellor of the Exchequer might have been kept in the back ground by his friends, in order to let his Majesty stand forward as the only prominent figure in the picture.—With regard to the expressions of applause bestowed on parliament by his Majesty, he had no objection to them, because he thought it the sort of language which it was always to be wished his Majesty should hold to his parliament; but he had never understood that it was either fit or constitutional to consider such applause, as applying to the conduct of

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his Majesty's ministers, in the particular manner in which the hon. gentleman who seconded the address, had chosen to consider it. The Chancellor of the Exchequer, he should suppose, did not himself so understand it; and the reason why the right hon. gentleman, he presumed, did not so understand it, was, because looking upon the present speech from his Majesty as he did upon all other speeches from the throne, as the speech of the minister, the right hon. gentleman, he conceived, would not say that a minister ought not to take advantage of such a vehicle, and by such means praise his own measures a second or a third time. He did not, besides, believe his Majesty meant to signify any such opinion of the late proceedings, as the hon. gentleman had intimated, and he would fairly tell the hon. gentleman why he did not think it possible for his Majesty to have given any such opinion. It fell to his lot to know from authority, that those who could alone inform his Majesty of the reasons and grounds of the different opinions and doctrines which had been formed and maintained, had not an opportunity of giving him any such information, and he knew his Majesty's sense of duty and regard to justice too well, to believe, that without any explanation on the subject, his Majesty would give a decided opinion. Mr. Fox added, that notwithstanding the pains which the hon. gentleman had obviously taken to effect such a purpose, the hon. gentleman should not prevent him from voting for the address; and he would farther tell the hon. gentleman, that it was not only unparliamentary and unconstitutional, but disloyal in the highest degree to his Majesty, to assert, that those who differ in opinion from ministers and opposed their measures, might not be as sincerely attached to the sovereign, as any other description of his subjects.

The address was agreed to *nem. con.*

The Marquis of *Graham* said, that the next step necessary for the House to take, in order to make their proceeding complete, was, to vote a message to her Majesty, congratulating her on the recovery of the King. The marquis urged the interest which her Majesty had in the King's recovery, and declared that her conduct during his Majesty's illness had been so exemplary, and so amiable, that it had excited the admiration, not only of England, but of all Europe. He then moved, "That a message be sent from this House to the Queen, humbly to congratulate her Majesty on his Majesty's happy recovery, in which, whilst we feel the sincerest satisfaction on the behalf of the public, we also cordially sympathize in the part which her Majesty cannot but peculiarly take in so happy an event; and humbly to assure her Majesty, that we always rejoice in every circumstance which can promote her Majesty's domestic felicity, and reward those exemplary virtues which have long endeared her Majesty to the nation."

Mr. *Fox* said, he did not feel any objection to the motion, other than that he believed it to be perfectly unusual. He reminded the House, that when on a former occasion an attempt was made on his Majesty's person, that had alarmed the whole nation very much and drawn forth addresses from both Houses of Parliament and all parts of the country, no address to the Queen had been thought of, though her Majesty was undoubtedly as much interested on that occasion as on the present. He did not therefore know upon what principle it was, that they were now to address the Queen, that would not extend much farther. This he would venture to say, that if all Europe had admired the Queen's conduct during his Majesty's illness, there was another person whose conduct all Europe had also admired, and whose character by that conduct had been illustrated, and had acquired additional splendour and dignity in the eyes of all mankind. If her Majesty was to be addressed, he saw no reason why the Prince of Wales ought not to be addressed.

Mr. *Pitt* said, if he understood the right hon. gentleman correctly, he did not really object to the address, but only doubted whether it was not unusual to address the Queen on his Majesty's recovery. He apprehended that the address, then moved, was made to the Queen, because there were precedents for such an address on their Journals, and none for addresses on such occasions to any other branches of the royal family. Had there been any precedents, he saw no reason why an address should not be voted to the Prince of Wales, but there were none such. He mentioned the precedent in the reign of queen Anne, when prince George of Denmark had been dangerously ill, and upon his recovery that House addressed the Queen.

The address to her Majesty was agreed to.

The King's Answer to the Commons'

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Address.] To the Address of the Commons, the King returned this Answer:

" Gentlemen;

" I thank you most cordially for this loyal and dutiful address. Your warm expressions of congratulation, and the signal proofs which I have repeatedly received of the sincere and affectionate attachment of my faithful Commons, and of the nation at large, have made an impression on my mind which no time will ever efface."

Debate on the Navy Estimates.] March 17. The report of the Navy Estimates were brought up. On the resolution, " That 20,000 seamen be employed for the service of the year 1789,"

Mr. *Dempster* said, that being of opinion that nothing but the strictest economy in time of peace could enable this country to retrieve her resources, and support herself when involved in a war, he could not help thinking the voting 2,000 additional seamen an extravagant waste of the public money. Without the strictest economy it was impossible to expect that the people could be relieved from the heavy load of taxes with which they were burthened; much less to continue appropriating a million a year to the diminution of the public debt. He had listened with great attention to his Majesty's speech, and it had given him infinite pleasure to learn that we were in perfect peace, and " that his Majesty had the satisfaction of receiving from all foreign courts continual assurances of their friendly dispositions to this country." That being the fact, he saw no reason for voting the additional 2000 seamen; for surely if, as had been stated, about 1300 hundred were wanted for the East-Indies, and a few additional hundreds for the Mediterranean, they might, in a time of profound peace, be spared out of the 18,000 voted as they were last year. If the additional vote were for one year only, it would certainly lessen his objection to it.

Mr. *Pitt* said, that no man could carry his notions respecting economy farther than he did. He wished on all occasions to save money for the public, where it could be wisely saved; but the best economy that any country could practise in time of peace, was to keep up such a force, and take such measures of defence, as would be most likely to render the peace permanent, and insure its duration. It was with this view, that the additional 2000 seamen had been proposed, because while the country kept up a moderate but a necessary force for its defence, it was the less likely that any other country would be tempted to disturb its tranquillity.

Mr. *Hussey* agreed, that the best economy was not to grudge a little necessary expense, if the House could be satisfied, that the money asked for, would be well laid out. But, had the House any information before them to enable them to pass a judgment, that the money they were now called upon to vote, would be well laid out? If that could be declared to their satisfaction, he should not grudge the additional expense. The navy was with him, and with the public, a favourite service; but at the same time he would ask the right hon. gentleman whether he could say, in looking forward to the finances of the country, that this additional establishment could be provided for without imposing additional burthens on the people, or without endangering the annual provision of a million to be applied in diminution of the national debt. That was the time for asking questions, because it was in the beginning of their votes of supply, that the House ought to be satisfied that they were not laying a foundation for entailing additional and unnecessary burthens on the people.

The Resolutions were then agreed to.

Debate on the Army Estimates.] The report of the Army Estimates being brought up,

General *Burgoyne* rose, and commented on the conduct and management of the army. He began with remarking that the army estimates were not exactly the same as last year, inasmuch as the two regiments of Life Guards, which constituted the household troops, had been reduced and altered. That the alteration might be proper, he had no doubt: but there was one circumstance that struck him as very extraordinary; indeed so much so, that he could scarcely believe it, and that was, with regard to the situation of the reduced officers. He had heard that they not only had their pay, but that they were allowed the power of selling their commissions. This power struck him as so singular, that whether it was considered economically or militarily, he could not reconcile it to any principle of policy or reason. By giving every officer a power of selling

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his commission, every officer had a power of entailing the perpetuity of his pay on the country; because, whenever a gentleman, holding one of those commissions, found his constitution fail, he had nothing to do but to sell, and his successor would come into the nonentity of an ensigncy, lieutenancy, or whatever rank the commission might give. The general contended that any gentleman, who wished to see a favourite son in a red coat, might purchase one of these cornetcies for him, and then a lieutenancy, and so on up to high rank, which the son might thus reach without ever seeing a soldier, or knowing what a firelock was. He ridiculed this idea of making officers who would be saved from the danger of all the fatigues, broken bones, &c. which those who went into actual service encountered. If the case were as he had heard it was, nothing, he said, could save the country the expense caused by the existence of these commissioners but apoplexies and sudden deaths. —The general next adverted to the taking away lord Lothian's regiment, which he considered as disgracing that officer. They had before heard, that there ought to be in the military department some person who should be considered as the military minister, some ostensible person responsible for every step taken in the military department, and that person ought, in his mind, to be the commander-in-chief. He enlarged on the advantages that would result from such an appointment. The military minister, in point of patronage, would, he said, be of important use. He would be the informant of the King, as to the propriety of every promotion; he would be the man to bring military merit to the foot of the throne, and to draw it forth from places where ministers never looked for it, namely from the field of actual service. He took notice of the system of promotion adopted last year with respect to the army in India, and said, he wished he might be a false prophet; but he feared it might tend to raise murmurs and discontents in the army, and thus materially injure the service. He spoke of the awkward predicament in which it might place some officers of great reputation, mentioning colonels Stuart, Elphinstone, Floyer, and other respectable names, of high character, who, at the end of a long and glorious war, in which they had commanded armies, might have to be under those whom they had themselves commanded. Having urged this pointedly, he recurred to the taking away lord Lothian's regiment, and declared that he was convinced the measure never originated in his Majesty's mind. The maxim of the constitution was, that the king could do no wrong; but he would carry it further, being convinced that he could think no wrong, and that his Majesty never did an ungracious thing but when he was imposed upon. The late earl of Chatham, he remembered, had observed, that in the Act of Settlement there was a clause to oblige the minister to sign his name to the advice he gave the sovereign, and had emphatically said, "Would to God, that was still the rule!" Who it was that gave his Majesty the advice upon which lord Lothian's regiment was taken away, he knew not; but it was the universal opinion, that the noble marquis had lost his regiment on account of his vote in parliament. The late earl of Chatham, he well remembered, had reprobated the exercise of such unconstitutional influence, when general Conway and colonel Acourt had their regiments taken away for a similar reason. After paying great compliments to the army, and going so far as to say, that any merit he might have as a minister, was owing chiefly to the spirit and valour of the officers, the late earl of Chatham had declared that "he regretted that they should hold their commissions by any other tenure than their military services." The general dwelt on this, which he said, he was pretty certain were the exact words of the noble earl's expression: he hoped, therefore, the right hon. gentleman was not only the inheritor of the noble earl's talents, but the inheritor of his sentiments.

The *Secretary at War* declared, that though he was not professionally bred, yet he did not hesitate to stand up in his official situation and say, that he conceived it was the notion of our government that he was in some sort officially responsible for every measure taken in the military department, and he assured the House, he never would shrink from that responsibility. With regard to a commander-in-chief, whenever the country required it, such an officer should be appointed; but he could not agree with the hon. general that a commander-in-chief was absolutely necessary in time of profound peace. With regard to the situation of the reduced officers belonging to the household troops, nothing had been done respecting it, but at the earnest recommendation of those distinguished persons who had held

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the command of the reduced regiments; and as to the perpetuity of their commissions, he could not agree to that fact, because they could be provided for by promotions, or vacancies made by death. With regard to the marquis of Lothian's regiment, he had not imagined that would have been brought under discussion in that House, because all the principles of the constitution agreed, that it was the undoubted prerogative of the Crown to appoint or dismiss officers in the army as the Crown should think proper, and if every appointment or dismission was to be made the subject of parliamentary notice, the prerogative might as well not exist. But exclusive of this, he could not help differing from the hon. general's opinion, both as to the fact he had stated, and the inferences he had drawn from it. The hon. general had said, that all mankind had agreed, that the marquis of Lothian had been dismissed the service. He must answer from such grounds as he had in his possession, and those grounds did not warrant any such proposition. The marquis had not been dismissed; what had happened, came within the case of an officer removed from one regiment to another, and nothing more; nay, the ground on which the noble marquis had declined the regiment that had been offered to him, proved that it was so. Whatever difficulty, therefore, there was in the arrangement, it arose from the noble marquis himself. Sir George referred to the case of colonel Acourt and general Conway, who though they had lost their regiments, had not been dismissed the service.

Colonel *Phipps* said, it was at all times painful to enter into discussions that referred to the personal conduct of any man; but the characters of officers were so peculiarly tender, that he could not help being surprised to hear such strong expressions used, on such a subject by a military man; and more especially when he considered who that military man was, and what his own conduct had been. All that the hon. general had said relative to the household troops, he considered as merely calculated to introduce his real purpose with the better grace, and to create an appearance, that what the hon. general had chosen to say respecting the marquis of Lothian, was not the sole object for which he had risen. With regard to the case of the marquis of Lothian, he would go farther in considering it than the right hon. gentleman behind him, and would not scruple to declare, that his dismission was no disgrace, but warrantable, even if it were on the grounds of offensive political conduct. The marquis of Lothian was to be considered as having acted in a double capacity; not merely militarily as an officer of cavalry, but in a civil capacity, as an officer of the court, personally employed about his Majesty as a state attendant. Might not his Majesty, then, choose his own servants, and for any reason that he thought good, dismiss them from their attendance on his person? The noble marquis did not object to the particular regiment that was offered to him, as if it were liable to any imputation; nor in fact was it liable to any imputation whatever. He saw not, therefore, how any disgrace could apply to the noble marquis merely on account of his being removed from one regiment and offered another; no disgrace could attach in his case, any more than in the dismission of any other of the King's servants; and surely, if the King should, even on a motive of caprice, or because he disliked the figure of a particular person in his service, and wished that such a figure might not stand close behind him, or at his elbow, choose to dismiss him, who should say he ought not to exercise his undoubted prerogative? He by no means intended any personal allusion in what he had said, but merely to put the case on the broadest basis.

Mr. *Fox* said, he would not be deterred from saying a few words, with regard to the army in general, by any such declaration as that made by the hon. gentleman who spoke last, namely that he meant merely to introduce an allusion to the circumstance of the marquis of Lothian's having his regiment taken from him. Every member of that House, had not only an undoubted right to make his observations on the conduct of the executive government at all times; but it was his peculiar duty so to do, when the sums necessary for the services to be carried on by a particular department, was the subject of the vote under consideration. He would not go into a minute discussion of the army estimates, because the singular circumstances of the times were his justification for not mentioning again, what he had debated last year; but he should contend, that their having been discussed then, was no reason whatever, why they should not be discussed over again, were it not that the pressure of time occasioned by the cir-

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cumstances, to which he had alluded, rendered it improper. He remained, however, in the same opinion in respect to the augmentation of the last year, and of its application to the West Indies. He thought both the one and the other unnecessary and objectionable; and, in regard to the mode and manner of the latter, that it was peculiarly unwise and impolitic.—Having said thus much of the army in general, he would proceed to speak to the affair of the marquis of Lothian's dismission from his regiment. He declared, it had never been his habit to be intimately acquainted with lord Lothian; and if he were to discuss the word "disgrace," with a view to its attaching to the marquis in consequence of what had lately happened, he should undoubtedly agree with the hon. gentleman who spoke last, that the marquis had suffered no disgrace in point of character, because an unimpeachable character could not be disgraced by any minister, nor even by the King himself. Disgrace of character could only arise from a man's actions, and the judgment of the public passed upon those actions. But to say that the marquis of Lothian had not been marked with the disfavour of his Sovereign, and disgraced as far as that could disgrace him, was impossible. The hon. gentleman and the right hon. Secretary of War, had both contended, that it was merely a removal of an officer from one regiment to another, and that such a removal was no disgrace. The hon. gentleman had himself a company in the guards; if he were to be moved to the command of a company in a marching regiment, would he not think it a disgrace, professionally considered, and could he be satisfied with the idea, that the figure of another officer was more agreeable to the King? At least, though the hon. gentleman might not find the difference of emolument arising from the alteration worthy his notice, he would feel the removal to be a disfavour, which almost amounted to a disgrace.—Mr. Fox took notice of what had been said respecting the equality of rank in respect to the command of different regiments, and contended, that though the rank was the same, yet, when the emolument was materially different, it could not be possible to doubt whether a removal from the one to the other was a disgrace or not. With regard to the noble marquis's having declined accepting one regiment, and being willing to accept another, the cause was obvious. One regiment had been commanded in person by his father at the battle of Culloden, and it was natural to suppose, that the marquis, for a variety of reasons, might wish to have that regiment rather than any other, if he was to be removed. Mr. Fox ridiculed the idea of the marquis being to be considered as a person in a civil capacity, and as an officer of the household; and the strongest proof that ministers themselves did not so consider him, was, their leaving his dismission in the power of the Regent, when they were passing a bill, distinguished for their endeavours to consider and describe the household to as unlimited an extent as possible. God forbid that he should dispute the King's prerogative of appointing or dismissing any officer of the army, without assigning any reason whatever! He hoped that undoubted branch of the royal prerogative never would be disputed; and he was glad to find no one of his friends had that day called it in question. He would do justice to the other side of the House also, and admit that they had not defended their conduct by resting on the prerogative, but had resorted to a distinction which he did not think could be supported in argument. He declared he could not perfectly allow what had been said to have been the grounds for taking away the regiments of general Conway and colonel Acourt; much less that there was any thing at all similar or analogous between the dismission of the marquis of Lothian and the offering him another regiment, and the case of his hon. friend (general Burgoyne.) The difference was only this, the marquis of Lothian was dismissed from his regiment and offered a less lucrative situation; his hon. friend had resigned his regiment. He certainly afterwards accepted a regiment of infantry, but then it was to be considered that he accepted it from his own friends. With regard to the dismission of the marquis of Lothian, there were circumstances, that not only placed it in no very favourable view, but circumstances that, in his mind, placed it in a very unfavourable point of view. His Majesty, after having recovered from a severe and afflicting illness, was in a state that necessarily called for repose. It was therefore thought proper, and he was ready to say very wisely so thought, that no heavy business, or matters that might occasion much agitation of mind should be submitted to his consideration; and

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yet, in the very moment when repose was necessary, his Majesty had been made the instrument of party views, and inspired with sentiments of political vengeance. He had been obviously used as the engine of ministerial revenge and punishment.—Mr. Fox declared, that if ever there was an act of the minister, and not of the Crown, it was in the present instance. He said, it happened to consist with his knowledge, that his Majesty had not had an opportunity of knowing, by listening to the necessary explanations, what were the motives and grounds on which certain opinions and conduct had proceeded, and therefore nothing of what had passed ought to have been stated to the royal ear. This opinion of his had been corroborated in other places; he had himself heard from the highest authority, that every thing that had taken place on the unfortunate subject that had occupied the attention of parliament in the preceding part of the present session, ought to be buried in absolute oblivion. He had heard this doctrine laid down in high and distinct terms. And, comparing that language with the circumstance to which he was alluding, he could not but feel the violent contradiction between the language of ministers and their conduct. He declared, he should ever contend, that military officers ought not to be removed for their votes in parliament. No officers but those who held civil situations ought to be removed for any such reason. Suppose, for instance, a change of administration had taken place, and the noble lord holding the other gold stick (lord Amherst) had been dismissed; would not his Majesty's ministers have thought it an extraordinary sacrifice to the party views of opposition? Let it be recollected, that the present reign had been a reign of great contention, when powerful oppositions had existed in every part of it, and some honourable men of the highest rank in the military profession, had taken part in such oppositions to the measures of government. It had been, highly to the credit of the government, the uniform practice, that the political conduct of such military men should not affect their professional situation. That laudable abstinence from the exercise of power had, in the present instance, been departed from, and at a time, when it could not have been departed from without agitating the royal mind improperly. It seemed as if the determination was, with respect to the military, to hold to them this language; "You may vote against government, and the interests, as we think them, of his Majesty, but you shall not support the interests of the Prince of Wales." Whether this picture of the present politics of Great Britain be advantageous to hold out to foreign nations, he would leave it to the judgment of the public to decide. His hon. friend had argued, that there could be no minister for the military so fit as a commander in chief. He agreed with him completely, but declared he was glad to hear, that they had for the first time learnt, that they actually had such a person as a responsible military minister. The Secretary at War, he owned, had come forward manfully, and acknowledged his responsibility; and when he said this, he supposed, though the right hon. gentleman had said, he was officially responsible, he meant not to take advantage of that word as a shield for his responsibility. With regard to his hon. friend's idea, that one of the royal family would be most fit to be a commander in chief, he agreed as to the propriety of the argument; the late events and discussions had shown the branches of the royal family in the most favourable point of view, and had proved to the public, that their great and illustrious rank was exceeded by the greatness of their minds, and the number of their virtuous qualities. It had evinced their moderation of temper, their affection to their father, and their firm and zealous attachment to the constitution; but it could not be conceived that ministers would admit of any one of the royal family being appointed commander in chief, since it was clearly a part of their system to represent to his Majesty that his own family were his bitterest enemies.

The Report was then agreed to.

Debate on the Ordnance Estimates.] March 18. The House went into a Committee of Supply, to which the Ordnance Estimates were referred. On the motion, "That it is the opinion of this committee, that a sum, not exceeding 218,017*l.* 6*s.* 4*d.* be granted to defray the extraordinaries of the office of ordnance for the service of the year 1789,"

Sir *Grey Cooper* expressed his astonishment at so large a sum being moved to defray the charges of the ordnance extraordinaries. It exceeded, he said, the estimate of 1786 by 111,000*l.*, and that of last year by 40,000*l.* It was necessary,

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before they voted away so large a sum, that a reason should be given for so great an excess in the estimate. Sir Grey made several observations upon the extraordinaries for the plantations, which he said were enormously swelled; and particularized the Bahama islands, for which there was an excess of 23,000*l.* over the estimate of last year. He thought it his duty to throw out these hints, and left it to his friends to make more of them. He was of opinion, that a motion ought to be made on the report for such papers as might enable the House to judge what reasons existed for so considerable an excess.

General *Burgoyne* was averse to the estimates being voted that day, as gentlemen were not aware that the extraordinaries were to have been brought forward so early as that day, or the House would not have been so thinly attended. Those gentlemen who had firmly and successfully opposed the plan of fortifications, would not have been absent, and suffered so great an increase on the system of fortification, as evidently appeared to be carrying on in the West Indies, without having made some observation thereon. He conceived, that the committee ought to be in possession of a calculation of the final expense of the measures proposed, previous to their voting the estimates. He condemned the erecting of fortifications in the West Indies as useless, as a great and improper waste of money, and as likely to entail upon the country an excessive expense for the maintenance of soldiers to man those fortifications. If the committee did proceed, he would on the Report, move for a final calculation of the expense to be laid before the House.

Mr. *Pitt* said, that the hon. general had drawn, as an inference from the thinness of the House, that gentlemen who were absent were averse to the extraordinaries, and would not, if they had known of their being to be brought forward, have failed of attending to give their opposition. He, however, conceived, from the public notice which had been given, and from the absence of gentlemen, that a more natural inference might be drawn, namely, that there was nothing in the estimate they thought necessary to object to. He conceived that the hon. gentleman argued very unfairly, when he said, that those gentlemen who had firmly and successfully opposed the fortifications at home, would also, if they had been present, have opposed fortifying our West India islands. He was of another opinion; there was much difference between fortifying Portsmouth and Plymouth, and the fortifying our islands; that difference had been marked by many gentlemen who had opposed the former, and at the same time had declared themselves to have no objection to the latter. He said, that the degree of fortification thought necessary for the West India islands was indispensably requisite to be combined with the operations of our fleets, for the proper protection and security of those islands. Though not a military man and by no means professionally qualified to contest such subjects with the hon. general, he should be ready to meet him on the question, and debate it, being perfectly convinced, that the erecting a citadel or place of force for the garrison of the island to hold out in, till a fleet could operate, was so obviously essential, that in fair reasoning the opposite doctrine could not be supported. With regard to the expense, that matter had been fully discussed last year, when he was particularly called upon to say, what would be its ultimate amount; his answer had been, that it was impossible to state precisely what might be the amount, but that as nearly as he could conjecture, it would be between 180,000 and 200,000*l.* After a full discussion the House granted 18,000*l.*; and, upon the same principle, 36,000*l.* were asked for this year.

The several resolutions were agreed to.

March 20. The Report of the Ordnance Estimates being brought up,

General *Burgoyne* rose to express his strong objections to the plan of fortifying the West India islands. Before he gave his consent to that system, he had a right, as a member of parliament, to call for the estimate of the whole of the expense incurred. The Chancellor of the Exchequer had yesterday stated, that the expense, as nearly as he could conjecture, would be about 180,000. Now, the House must feel, that before they proceeded to vote so enormous an expense, they ought to have the estimates upon the table. There was also another reason for calling for them, which was, that the estimates had not, as in a former instance, been submitted to the inspection of a board of general officers. This was, in his opinion, essentially necessary, because there

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were no people upon earth who differed so much in opinion as engineers. It was, in fact, the natural effect of science, to excite a difference of opinion, as different persons, in proportion to their degree of knowledge in a particular profession, would necessarily think differently upon the mode of best effecting the same purpose. It was, therefore, the more necessary to ascertain before-hand, what should be the plan of fortifying the West India islands, if any were thought proper; in order to guard against the great additional expense occasioned by alterations and changes in the mode of construction, while the works were carrying on. The noble duke at the head of the ordnance, had himself changed his mind many times in the course of carrying on the works he had projected. Indeed, they need only go to Portsmouth and Plymouth to ascertain this fact, and they would see that the noble duke had made continual changes in his own plan; insomuch, that it might fairly be said of him, 'diruit, ædificat, mutat quadrata rotundis.' That the noble duke should change his plans during their progress in execution, was not at all wonderful. He had applied himself with peculiar ardour to the science of fortification; the noble duke was a most diligent scholar, and it was natural for him, in proportion to his improvement, to correct his own errors; he would only therefore say, that the noble duke's learning with respect to the particular science in question, had cost his country a great deal of money. Another estimate that he should call for, was an estimate of the number of men that would be necessary to man the works intended, when they should be finished. This was a most essential circumstance, respecting which the House had not received any explanation. He laid great stress upon this point, and asked, whether the gentlemen who were now ready to vote the sums asked for carrying on the fortifications, would next year be willing to vote an increase of men to double, perhaps to treble the number now voted for the defence of the West India islands? That climate was, he said, so unhealthy, that it was generally deemed the grave of the British soldier; it often happening, that one third of the troops sent there died within three months, another part were in the hospital, and not more than a third were capable of answering the muster-roll, and doing duty. That the proper persons to man the works must be there in time of peace as well as war, must be admitted, or else all the arguments used in favour of fortifying the West Indies, must fall to the ground. The right hon. gentleman had admitted, that a fleet was necessary to defend the islands, but he had contended, that fortifications were also necessary, because they ought to enable themselves to prepare against any sudden attack. The general said, he admitted, that where there were but few landing places fortifications might be necessary, in order to guard, at the beginning of a war, against surprise, or that sort of attack, which was professionally called a *coup de main*; but, he would maintain, that fortifications were no defence against the enemy, so as to preserve those islands; because, those fortifications might prove a disadvantage, rather than an advantage. He mentioned the taking of Guadaloupe, and said, it was easy for an enemy on landing to threaten a commander of a garrison, that if he did not capitulate, they would set fire to the island and burn the whole of it. If this should be the case, what use would result from the talents of the ablest officer? Would the officer hold out [A cry of Hear! hear!]? The general said, he hoped he would, but he doubted whether the clamour of the planters, their threats to join the enemy sooner than have their plantations destroyed, and a variety of other circumstances, might not oblige the best officer to capitulate. But, to come to another point; supposing an island was taken, what would a French officer say, when called upon to capitulate, and threatened with the devastation of the island? His answer would be, "In the name of mischief burn away." The French officer would know, that at the end of the war, in all probability, the island would be restored by France to Great Britain, and therefore the less valuable it was rendered, the better. In all fairness of argument, therefore, it must be allowed, that the fortifications would in effect prove a disservice to us, and an advantage to the enemy; because it was evident we could not use the same means of regaining an island as the enemy might resort to, for the purpose of obtaining its surrender. The general said, he had only heard one military authority speak in favour of the system of fortification, and that was an hon. friend of his, not then in his place, (sir George Howard). To that authority he was generally ready to bow with sub-

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mission; but, in the present instance, he could not help differing in opinion. His hon. friend, he recollected, had quoted the opinion of the marquis de Bouillé, who, his friend said, had expressed his surprise that Great Britain did not fortify her islands. Now, he could not think that the marquis de Bouillé, when speaking of a matter which so nearly concerned the interests of his own country, was not *sujet à caution*, and that when he publicly expressed his surprise at our not fortifying our islands, he did not really think as he spoke. The general said, he would not urge his objections further, but content himself with calling for the estimates he had stated. He thought the project of fortifying the West India islands, highly chimerical, that it was endless in point of expense, and went far beyond the scope of the military establishment of this country. When they considered the population of Great Britain, and the force wanted for the navy, every proposition that tended to diminish the one and weaken the other, ought to be resisted. He conceived, therefore, that he stood on the firmest parliamentary ground when, before he consented to vote a sum that might lead to ten times the sum supposed to be necessary, he called for the documents to prove the extent of the expense likely to be incurred.

Colonel *Phipps* said, without having the advantage of the capacity and military standing of the hon. general, he had one advantage, and that was, that during the last war he had been on the spot, and had done duty on almost every one of the islands in the West Indies. He spoke therefore, from a personal knowledge of their situation and circumstances. In treating of the engineers, the hon. general had professed to speak of them without disrespect to the corps. He believed the hon. general, but if he did not mean to treat the corps with disrespect, his argument afforded the strongest proof, that the engineers actually employed in carrying on the works in the West Indies were the most competent to judge of their propriety, use, and effect. He professed he had every respect for a board of general officers, and knew that they were to be considered as a kind of superior beings to inferior officers, but still he did not think that they had that degree of second sight, which alone could enable them, here at home, to decide better as to the propriety of the fortifications in the West Indies than those engineers, who from being upon the spot, could best judge from the differences of ground, and other local circumstances, what was the sort of work most fitly adapted to the situation. The hon. general, had made a curious objection to the fortifications; he had said the fortifications must be manned, and it would call for a great increase of men both in time of peace and of war. The explanation given by his right hon. friend, the colonel said, was, that in time of peace the present establishment would be sufficient for the West Indies; but in time of war, when resistance and attack were to be expected, it must necessarily be augmented to nearly double. Did the hon. general wish these fortifications should not be defended at all? If he thought they were to have no force in the West Indies, but that a race was to be run with our enemies, and a force be sent out after we learnt that they had sent out a force, thus counteracting expedition with expedition, let the hon. general recollect, that a force in time of war was more difficult to be got than in time of peace. The hon. general had talked of the unsalutary climate of the West Indies, and had said, it was the grave of the English soldier. That was in his mind, an argument in favour of preserving stationary garrisons in those islands, because, much depended on the seasoning of the troops there employed. There was in the West Indies a regiment called the 60th, which was kept there, and by long habit was fully seasoned to the climate. That regiment was composed chiefly of foreigners, and men of different countries. When he was there the 60th regiment was found infinitely more serviceable than twice the number of other troops. It proved therefore, that having a stationary garrison in the West Indies was always advantageous. The hon. general had admitted that fortifications were of use against a *coup de main*, in islands where there were but few landing places. Now that was the case in almost every island in the West Indies, because few of them had landing places but on one side of the island, in consequence of the trade winds, which blew so strong in those seas, that ships could not make the shore on the other side of the island, and the more especially, as the coast of most of those islands was exceedingly rocky and dangerous. As a further proof of the use of fortifications, the colonel men-

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tioned the circumstances of the capture of Martinique the war before the last. That island had then been attacked by 15000 men, and it was almost a year before they could obtain a capitulation, though held out against by only 800 men, and that merely because the island had fortifications, which was surely a strong proof of the necessity of fortifications, and of what the hon. general's argument went to viz. the saving of men. With regard to the effect of fortifications, in respect to a commander of a garrison's holding out, surely the argument told the other way. If the planters were so little our friends as to wish to go over to our enemies, the fortifications were of use, by enabling the commander, even in spite of the planters themselves, to hold out, and preserve the island till assistance could be given by our fleets. As a further proof of this, the colonel instanced that last war, though our fleets were deemed equal to those of the enemy in the West Indies, and ultimately proved themselves superior, yet island after island was captured merely for want of fortifications. In respect to the case the hon. general had put, as to the different advantages of our enemies to take our islands, and the powers we should have to recover them, he was sorry to hear from the hon. general that our enemies were to have such a superiority allowed them. Certain he was, that during the last war the conduct of our armies in no part of the globe afforded cause to ground such an argument against them. For his part, he could not help thinking that a small number of our troops behind fortifications were equal to any force our enemies could send against them. Our West-India islands either were or were not to be defended; if they were to be defended, according to the hon. general's argument, it came out that fortifications were absolutely necessary, as they tended to the saving of men, and the support of the navy, because as a less number of men stationed in a fortification could defend an island, the more could be spared for that essential service, the service of the navy. He wished the hon. general had advanced his arguments last year, because it could not but have tended effectually to silence the objections then offered on the score of fortifications tending to weaken the navy.

Mr. *Courtenay* said, he was acquainted with the customary practice of the board of ordnance, at least some years since, and that it had been usual for the board to have a plan and estimates of every new work submitted to them. If, in the present instance the same mode was adopted it would be an easy matter to submit the estimate at least to parliament. If the noble duke at the head of the ordnance proceeded without estimates, undoubtedly the House could not expect to have an estimate laid on the table, but must take their chance of the ultimate amount. He reminded the House, that two or three years ago the noble duke applied for leave to fortify Plymouth and Portsmouth, and much the same arguments in support of the project were urged then, as had been that day advanced. If the plan before the board of ordnance was really the plan of the engineers, who were to execute the works in the West Indies, he should have the better opinion of it; but unfortunately all the plans of fortification lately submitted to parliament were notoriously the plans of the noble duke himself, and the engineers were merely left to execute them. As a proof of this, he would mention a fact. He remembered that an engineer was to be sent over to Africa to view a certain situation, and examine the propriety of erecting a fort there. The engineer went over, and on his return, administration having undergone a change, the noble duke was at the head of the ordnance, and he altered the engineer's plan, and adopted a plan of his own. Colonel Bramlin was then at the ordnance board, and incurred the noble duke's displeasure, because he pointed out the errors of his plans. He would mention another fact, which was the affair of fort Cumberland, the estimate of the expense of which had been equally varied from time to time. In fact, under the noble duke's administration of the ordnance, engineers were solely considered as overseers, and permitted to superintend the carrying on of the works which the noble duke had planned. Had the board of ordnance an estimate of the probable expense of the intended works in the West Indies before them or not? If they had such an estimate, and it was concealed from that House, there was some deception in the business. It was, he maintained, necessary to know what the whole of the expense would be, before they voted any money on account. If the papers before the House were examined, it would be found, that the noble duke had deviated from all his boasted plans of economy: that in most of his schemes he had

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wasted large sums of public money, and that by laying out large sums in the purchase of powder-mills, he had raised the price of powder to six times its former cost. Whether this was done in order to preserve the game, or with a view to prevent people from using too much powder (which they might be inclined to do, if it continued to be cheap) he knew not, but in every one of the noble duke's schemes there would be discovered to be a profuse expenditure of the public money.

Mr. *Aldridge* rose to say a few words in relation to the charge against the board of ordnance on the ground of making out their estimates. The hon. gentleman having left the Board some time, might not be acquainted with the present practice, which was to lay before that House as accurate an estimate of every work intended to be carried on, as could possibly be made out. In regard to the question of fortifications in the West Indies, the Board had certainly received a plan and estimate of the works intended to be erected in those islands; but they found it impossible to make out from them any estimate sufficiently accurate to lay before the House. As nearly as could be computed, the whole expense of the works intended would not exceed 200,000*l.*

Mr. *Sheridan* said, that the real question for consideration, appeared to him to be, whether the Chancellor of the Exchequer, in asking that sum from parliament, had given the proper documents to satisfy the House, that the sum ought to be voted? He thought he had not; because, last year he had himself moved the very same motion as was now made by his hon. friend. The right hon. gentleman had then said, no estimate had been received by government from the West Indies, but that government expected one, and when it came, it should be laid on the table. Upon that suggestion, or rather promise, he had consented to wave his motion. As an estimate was now before the Board of Ordnance, the House ought to have it upon the table, before they proceeded to vote the money.

Mr. *Steele* rose to ask how it was possible, under the circumstances of the case, to lay the sort of estimate upon the table that gentlemen called for; they themselves must agree, that for a variety of reasons it would be highly improper to lay the plan of the intended fortifications on the table, and if a detailed estimate of the expense were presented, it must necessarily refer so minutely to the plan, that it would be unintelligible without it, or it would give so much information that all the dangers would be incurred that were meant to be avoided by not submitting the plan to the inspection of the House. The general amount of the intended fortifications, as nearly as could be calculated, would be from 180,000*l.* to 200,000*l.* There were, he believed, six islands intended to be fortified, and about 30 or 40,000*l.* was to be allowed to each island. Mr. Steele entered into a defence of the practice of the present board of ordnance, compared with the practice of former boards, in respect to their estimates, and contended, that the business of the ordnance department was properly conducted. In proof that fortifications were necessary in the West Indies for the preservation of our islands there, he said that Grenada, St. Vincent's, and other of our islands had, in wars antecedent to the last, surrendered without firing a single shot, and been taken by a small number of men. The force in the islands at the time of attack could make no stand, merely for the want of fortifications to enable them to hold out till relief could be afforded by our fleets.

Mr. *Pitt* said, that so perfectly satisfied was he of the policy of pursuing a moderate plan of fortification in the West Indies, that he had the preceding day had the presumption to offer to combat with the hon. general over the way on the discussion of the subject. He would not, however, have the still greater presumption to attempt to add one syllable to the arguments that had been urged in the course of the day's debate; arguments that in his mind most unanswerably proved that the plan was founded in propriety and good sense. The point to which the question appeared to be reduced, was merely what the extent of the expense would be. As far as that department, to which the question referred, could form any judgment, it was understood that it would amount to between 180,000*l.* and 200,000*l.* but the board of ordnance, for a variety of obvious reasons, had declared, that it was utterly impossible for them, from the estimates that had been transmitted to them, to form an accurate judgment of the ultimate expense. If, therefore, understanding that an exact statement of the ultimate expense could not be given, the House were desirous of having an estimate laid upon the table, for the sake of having in writing, what they

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had already heard in substance, he should have no objection.

The Report was then agreed to.

Copy of the Treaty of Defensive Alliance with Prussia.] Mr. Pitt presented to the House, by his Majesty's command, a copy of the following treaty of defensive alliance between his Majesty the king of Great Britain and his Majesty the king of Prussia.

Their Majesties the King of Great Britain and the King of Prussia, being animated with a sincere and equal desire to improve and consolidate the strict union and friendship, which, having been transmitted to them by their ancestors, so happily subsist between them, and to concert the most proper measures for securing their mutual interests, and the general tranquillity of Europe, have resolved to renew and strengthen these ties by a treaty of defensive alliance, and they have authorized, for this purpose, to wit, his Majesty the king of Great Britain, the sieur Joseph Ewart, his Envoy Extraordinary at the Court of Berlin; and his Majesty the king of Prussia, the sieur Ewald Frederick count de Hertzberg, his Minister of State, and of the Cabinet, Knight of the order of the Black Eagle; who, after reciprocally communicating their full powers to each other, have agreed upon the following articles.

Art. 1. There shall be a perpetual, firm, and unalterable friendship, defensive alliance, and strict and inviolable union, together with an intimate and perfect harmony and correspondence between the said most serene kings of Great Britain and Prussia, their heirs and successors, and their respective kingdoms, dominions, provinces, countries, and subjects, which shall be carefully maintained and cultivated, so that the contracting powers shall constantly employ, as well their utmost attention, as all those means which Providence has put in their power, for preserving at the same time the public tranquillity and security, for maintaining their common interests, and for their mutual defence and guaranty against every hostile attack; the whole in conformity to the treaties already subsisting between the high contracting parties, which shall remain in full force and vigour, and shall be deemed to be renewed by the present treaty, as far as the same shall not be derogated from with their own consent, by posterior treaties, or by the present treaty.

Art. 2. In consequence of the engagement contracted by the preceding article, the two high contracting parties shall always act in concert for the maintenance of peace and tranquillity, and in case either of them should be threatened with a hostile attack by any power whatever, the other shall employ his most efficacious good offices for preventing hostilities, for procuring satisfaction to the injured party, and for effecting an accommodation in a conciliatory manner.

Art. 3. But if those good offices should not have the desired effect in the space of two months, and either of the two high contracting parties should be hostilely attacked, molested, or disturbed in any of his dominions, rights, possessions or interests, or in any manner whatever, by sea or land, by any European power, the other contracting party engages to succour his ally without delay, in order to maintain each other reciprocally in the possession of all the dominions, territories, towns, and places, which belonged to them before the commencement of such hostilities; for which end, if his Prussian Majesty should happen to be attacked, his Majesty the King of Great Britain shall furnish to his Majesty the King of Prussia a succour of 16,000 infantry, and 4000 cavalry; and if his Britannic Majesty should happen to be attacked, his Majesty the King of Prussia shall likewise furnish to him a succour of 16,000 infantry and 4000 cavalry, which respective succours shall be furnished in the space of two months after requisition made by the party attacked, and shall remain at his disposal during the whole continuance of the war in which he shall be engaged; these succours shall be paid and maintained by the required power, wherever his ally shall employ them; but the requiring party shall supply them in his dominions with such bread and forage as may be necessary, upon the footing to which his own troops are accustomed.—It is nevertheless agreed between the high contracting parties, that if his Britannic Majesty should be in the case of receiving the succour in troops from his Prussian Majesty, his Britannic Majesty shall not employ them out of Europe, nor even in the garrison of Gibraltar.—If the injured and requiring party should prefer succours in money to land forces, he shall have his choice, and in case of the two high contracting parties furnishing to each other the stipulated succours in money, such

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succours shall be computed at 100,000 florins Dutch currency, per annum, for 1000 infantry, and at 120,000 florins, of the like value, for 1000 cavalry, per annum, or in the same proportion by the month.

Art. 4. In case the stipulated succours should not be sufficient for the defence of the requiring power, the required power shall augment them according to the exigency of the case, and shall assist the former with his whole force, if circumstances shall render it necessary.

Art. 5. The high contracting parties hereby renew, in the most express terms, the provisional treaty of defensive alliance which they concluded at Loo, on the 13th of June in the present year, and they again engage and promise to act at all times in concert and with mutual confidence, for maintaining the security, independence, and government of the republic of the United Provinces, conformably to the engagements which they have lately contracted with the said republic; that is to say, his Britannic Majesty, by a treaty concluded at the Hague, on the 15th of April 1788, and his Prussian Majesty, by a treaty signed the same day at Berlin, which the said high contracting parties have communicated to each other.—And if it shall happen that, by virtue of the stipulations of the said treaties, the high contracting parties should be obliged to augment the succours to be given to the States General, above the numbers specified in the said treaties, or to assist them with their whole force, the said high contracting parties will concert together upon all that may be necessary relative to such augmentation of succours to be agreed on, and to the employment of their respective forces for the security and defence of the said republic.—In case either of the said high contracting parties should happen, at any time hereafter, to be attacked, molested, or disturbed, in any of his dominions, rights, possessions, or interests, in any manner whatever, by sea or by land, by any other power, in consequence and in hatred of the articles or stipulations contained in the said treaties, or of the measures to be taken by the said contracting parties respectively in virtue of those treaties, the other contracting party engages to succour and assist him against such attack, in the same manner, and by the same succours, as are stipulated in the third and fourth Articles of the present treaty; and the said contracting parties promise, in all similar cases, to maintain and guaranty each other in the possession of all the dominions, towns, and places, which belonged to them respectively before the commencement of such hostilities.

Art. 6. The present treaty of defensive alliance shall be ratified by each party, and the ratifications shall be exchanged in the space of six weeks, or sooner, if it can be done.

In witness whereof, we the underwritten, being authorized by the full powers of their Majesties the Kings of Great Britain and of Prussia, have in their names signed the present treaty, and have thereto set the seals of our arms. Done at Berlin, the 13th of August 1788.

(L. S.) JOSEPH EWART,

(L. S.) EWALD FREDERIC COMTE DE HERTZBERG.

Debate in the Commons on the Bill to Commemorate the Revolution.] March 24. Mr *Beaufoy* said, that in rising to make the motion of which he had lately given notice, he felt his mind impressed with some degree of anxiety; for if he should not succeed, he was conscious that he should not only bring a kind of discredit on the most glorious event, which history records; but should also, in some degree, (for such must be the effect of a negative on the motion) tarnish the lustre of the constitution itself. But that, while on the one hand, he found how impossible it was to avoid the pain of such an apprehension, he felt himself on the other supported and encouraged by the remembrance, that the principle on which he proceeded, had repeatedly received the sanction of the British legislature. It was a principle too natural to the human heart, and too consonant to its best feelings, not to have obtained the countenance of all free nations in every age of the world. For what free people were ever so lost to virtue, and so insensible to the feelings of gratitude, as not to acknowledge, that for national evils averted and national blessings bestowed, the public thanks of the nation were due to the Almighty? He observed, that in this kingdom particular days in the year had been set apart for the commemoration of such events as were thought by the legislature to have had a more than common influence on the constitution and happiness of the country: that on the 29th of May, for example, we were accustomed to celebrate the close of

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civil discord and the restoration of legal government: that of the truth and wisdom of the principle of his intended motion, he should therefore forbear to speak, as a stronger testimonial of that truth and a higher panegyric on that wisdom, than any which he could give, would be found in the records of the House, and, he trusted he might add, in the feelings of every gentleman to whom he had the honour to address himself.—After this introduction, Mr. Beaufoy proceeded to consider the propriety of applying to the Revolution, the principle which he had thus described. He said it was unnecessary to remind the House of the singular importance of this great event, either with respect to the magnitude of the evils escaped, or of the nature of the blessings which had followed the deliverance. He observed, that the House were perfectly aware of the situation in which the two countries that now compose Great Britain, at that time stood. That in Scotland, words the most innocent, as in the days of Nero, became a capital offence; that the marquis of Lorn was executed for having defamed the king's ministers; that torture was brought into common use, as a necessary machine of government; and that the parliament of Scotland, like the senate of Rome, had declared, that absolute power in the sovereign was the fundamental law of the state: that the House were equally aware, that in England the government was one vast conspiracy against the interests, the religion, and the liberties of the people; that the law was made an instrument of destruction to the guiltless, and that the sentence of the judge was consignment to legal murder; that in the king every act was threatening and portentous; that he himself was a pensioner to the ancient enemy of the kingdom; that to extirpate for ever the liberties and religion of the people was the stedfast purpose of his reign, and that to accomplish this purpose, the armies of France, at that time the terror of Europe, offered their utmost aid.—Mr. Beaufoy then observed, how impossible it was to reflect on the deliverance of the kingdom from the dangers of that aweful period, without acknowledging that a stronger claim to the ardour of gratitude, and the earnestness of devotion, had never occurred in the history of man. He proceeded, in the next place, to state the blessings which have been consequent on the event he wished to commemorate. He asked, to what other cause could be ascribed that consciousness of safety, that sense of personal security, which constitutes our greatest happiness, and without which all other enjoyments are but motives of inquietude, and incitements to anxiety? To the consequences of the same event, he imputed that wonderful fabric of manufactures and commerce, which surpasses the comprehension of foreigners, and scarcely within the reach of our own; and he further remarked, that to the genuine effects of the same powerful cause we also owed that innate strength and intense energy of action, which had enabled this kingdom, in our own day, not only to oppose the united efforts of the three most potent states in Europe (each of which, before the Revolution, was thought our equal in strength), but had also enabled us to baffle their utmost exertions, even when our own dependencies had joined the confederacy against us. Of a greater and still more obvious blessing, he said, he need not speak; for, who that valued his own freedom, who that regarded the happiness of his country, or who that thought an attachment to the rights of the people the best attribute to royalty, could forget, that to the Revolution we owed the accession of his Majesty's illustrious house. That attachment, he observed, had already continued without change or interruption, through the long period of three successive generations, and of its continuance in the fourth, we felt an assurance, on such grounds as gave to expectation the certainty of experience.—From the arguments which considerations of religious gratitude had suggested, he passed on to those which might be drawn from the advantage of impressing the minds of the people with a just and solemn sense of the nature of their rights, the attempts which in former periods had been made to subvert them, and the miseries which, if those attempts had succeeded, would have been brought upon themselves, and entailed upon their posterity. Those, he observed, who had marked the history of free states, had uniformly thought, that the danger to the liberties of the people is not so great from external violence as it is from the silent progress of internal decay. He declared, that he himself had long considered the people of England as too much disposed to rely on the sufficiency of Magna Charta, on the elective constitution of the third branch of the legislature, and on the right of trial by jury, for

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the maintenance of their freedom; and that the reason on which he founded this opinion was, that all these securities had been put to the proof, and had failed us in the trial. Where, he asked, were the energies of Magna Charta, when the furious spirit of Henry 8 had possession of the throne? Or, what obstacles did the elective constitution of the House of Commons oppose to the despotic temper of the king? Were not they themselves the abject instruments of his tyranny? If, said he, the influence of Magna Charta could have preserved the liberties of England, would Great Britain ever have known the disgrace of Cromwell's usurpation? Or, if the right of trial by jury were a sufficient guard from the attacks of irritated power, would the illustrious lord Russel, or the immortal Sydney have died upon a scaffold? Of what avail was that right in the days of Jefferies, when the circuit of the judges was more terrible to the subject than even military execution; the sufferer then found, that a trial by his peers served but to aggravate his distress; as it proved to him, that he was betrayed where he expected protection, and that his equals and fellows in society were accomplices in his murder. Thus, Mr. Beaufoy said, it appeared from the history of this kingdom, that when the spirit of the people was decayed, when the energies of public zeal were exhausted, and the voice of patriotism was no longer heard, the constitution itself became but a powerless form, a treacherous show of seeming good, persuasive to the eye, but delusive to the hope.—He added, that if the House should approve of the motion he was about to make, he would propose that the bill to be brought in on this occasion, should contain that brief but comprehensive abstract of the rights and privileges of the people, which is exhibited in the Bill of Rights, and should be annually read in our churches as a part of the service of the day. Thus, he observed, the people would be instructed in the nature of their rights, would be informed of the danger to which those rights had been exposed, and would be taught the miseries which the loss of them would bring upon their native land; and thus, the liberties of England would be protected from the ruin which had attended the freedom of other states, and the constitution be rendered as independent as possible of time and chance. Mr. Beaufoy concluded, by saying, that to celebrate the Revolution was to acknowledge the obligations which we owed to the authors of that illustrious event; and that when the titles of Russel and Devonshire, of Dorset, Argyll and Danby, and of their other benefactors should be gratefully mentioned, the people would feel a joyful assurance, that if ever their rights should again be attacked, the descendents of those great men, forgetful, like their ancestors, of the party distinctions by which they might happen to be divided, would cordially unite, and, so united, would form an irresistible phalanx, on the side of virtue and their country; that to celebrate the Revolution was also to remind the people of the singular obligations which they owed to the clergy of the established church; that it was to remind them of the unshaken integrity, the determined fortitude, the stedfast zeal with which, under trying circumstances, and in a fearful season, the bishops sustained their part; that it was to remind them of the earnestness with which, in opposition to their own immediate interests, the dissenters on that occasion supported the established church, and sacrificed religious distinction to the cordiality of a civil union. And finally, that it was in reality to remind them of a circumstance, the most pleasing that could be brought to their recollection—the efforts of all ranks and classes of Englishmen in support of their common rights and of the free constitution of their country. On all these grounds, he hoped that it would not be unwelcome to the House, when he moved, "That leave be given to bring in a bill, to establish a perpetual anniversary thanksgiving to Almighty God, for having, by the glorious Revolution, delivered this nation from arbitrary power; and to commemorate annually the confirmation of the people's rights."

Lord *Muncaster* said, that his hon. friend had so ably and so amply explained the grounds and motives on which he wished to introduce his bill, that he had left him no occasion to add a single syllable on the subject, he would therefore content himself with seconding his hon. friend's motion.

Sir *Richard Hill* declared, it would be extraordinary indeed, if in the course of an hundred years a British House of Commons should not have discovered the benefits of the Revolution. The motion, therefore, reminded him of the canonization of the popish saints, which generally took place fifty or an hundred years after their death. Sir Richard desired, that in

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consequence of this observation, he might not be considered as a person who disliked the Revolution, or as unwilling to acknowledge the important advantages that this country had derived from it. He was exceedingly thankful for both, and did not wish to oppose the religious celebration of so interesting an event; but he feared, that if the motion were adopted, instead of a day of thanksgiving and prayer, the day would become a day of feasting and drunkenness. He said, there was already a service of the church specially appointed religiously to commemorate the Revolution, and if the clerk would turn to the form of prayer for the 5th of November, which followed the reading psalms in the common-prayer book, he would there find it. [Mr. Hatsell read the Gun-powder treason and Plot form of prayer, which directs special "Prayers of thanksgiving to be used yearly upon the 5th of November, for the happy deliverance of King James 1, and the three estates of England, from the most traiterous and bloody intended massacre by gun-powder; and also for the happy arrival of king William, on this day, for the deliverance of our church and nation." He also read a few lines of the several prayers in the same service, mentioning King William's happy arrival.] Sir Richard resumed his argument, and addressing himself peculiarly to the Speaker, said, he was more than any other member interested in the motion, since, if it was carried, he would be obliged to recollect the day, and have to attend and freeze at St Margaret's *in pontificalibus*. On the 30th of January, the Speaker, together with a noble and learned lord belonging to the other House, made an annual visit to St. Margaret's already, and he believed neither the right hon. gentleman in the chair, nor the noble and learned lord, would wish to make their visit to St. Margaret's biennial. He apologized for the trouble he had given the clerk, to refer to the prayers for the service ordained for the 5th of November, but he had thought it necessary, because he believed the members of that House were not particularly conversant with the book of common prayer.

Mr. *Beaufoy* replied to sir Richard's objections, which he said, divided themselves into two parts. The hon. baronet first objected, because the Revolution had taken place one hundred years ago. That, Mr. Beaufoy said, was the precise ground on which he rested his motion. It was because the blessings that had been derived from the Revolution had been experienced for a full century, that he wished to make the Revolution a subject of distinct and specific religious commemoration. The hon. baronet's second objection was that there was already a service of the church appointed to commemorate the landing of King William. It was true, there was such a service; but in it were comprehended two objects that had not the smallest analogy or reference to each other. The one the Gun-powder Plot, the other the arrival of King William. It was to commemorate neither of those events, that he wished to bring in a bill. Because a miserable bigot had been happily detected in a design to blow up the two Houses of Parliament, cruel and detestable as that intention was, would any gentleman contend, that its being prevented was a circumstance of equal importance with the Revolution, which secured our liberties, and gave us a free constitution? Nor was it King William's landing merely that he was anxious to commemorate. The examples of kingdoms, acquired by conquest and by force of arms, were much too frequent to render any one of them a fit subject of special commemoration. It was the glorious event of the Revolution itself, by which, without loss of blood, the sovereign who had abused his powers, had vacated his kingly office, and an opportunity was given to that family to ascend the throne, under whose mild and auspicious government the country had so long experienced the full perfection of national freedom, happiness, and prosperity.

The Motion was agreed to.

Debate on Mr. Fox's motion for the Repeal of the Shop tax.] April 2. The order of the day being read,

Mr. *Fox* rose and observed, that the subject of the shop tax had been so often discussed, it had engaged so much of the public attention, so much had been said upon it in that House, and so much more had been said upon it without doors, that he would not trouble the House either with a repetition of his former arguments, or with going into any length of reasoning concerning its unjustifiable nature. With regard to the objections against the shop tax, urged by himself and those who agreed with him upon the subject, it had ever been said to be partial and oppressive because it fell upon the shopkeeper, and not upon the consumer. Those who en-

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deavoured to prove that the tax ought to continue, had always maintained that it fell upon the consumer, and not upon the shopkeeper; and upon that single question of fact, the argument had remained at issue between them. Mr. Fox proceeded to adduce reasons, which in his mind clearly proved that it fell upon the shopkeepers, and the shopkeepers only. The shopkeepers of the city in which they then were, and of the city of London, were most liable to the oppression of this tax, and, consequently, best enabled to judge whether they felt it to be oppressive or not; and they had unanimously, steadily, and unremittingly opposed the tax, on the ground that it was oppressive to an intolerable degree. The shopkeepers of the two cities, and the borough of Southwark had applied to that House, regularly, every year since the tax had become a tax, stating that it was oppressive, and praying relief. Of whom was that majority composed, who had supported the continuance of the shop tax? Certainly, not chiefly of persons representing cities and towns in which there were many shopkeepers; whereas, those who had done him the honour to unite in opposing the tax, and unremittingly to complain of its injustice, were persons representing places wherein it was notorious that there were a great number of shops. It was, therefore, fair to conclude, that the truth of the argument was, that the tax did fall upon the shopkeeper, and not upon the consumer; since, as the tax had now lasted for a considerable time, the shopkeeper would have felt that it did fall upon the consumer, and not upon himself, if the fact were so; and, in that case, he would not have continued steadily to complain of it as a personal grievance. In this point of view, therefore, the argument of those who had hitherto supported the tax, fell to the ground.—Mr. Fox said, that he would only, in addition to this, make one or two observations, to show that, if unfortunately a total repeal of the tax should be denied, which he trusted would not be the case, some essential alterations ought to be made in it. And first, with respect to the inconvenience with which the tax was attended, in consequence of the impossibility to lay it fairly and equally on all shopkeepers. This was, at present, so far from being the case, that nothing could be more unfair, nothing more unequal, than the mode of assessment, which had been adopted. That was deemed a shop in one part of the city and in one parish, which was not deemed a shop in another district and in another parish. He knew instances, where a whole house had been assessed, because there was in it one room—not where goods, wares, or merchandize were retailed, but in which there worked a person whose occupation and employ it was to work for retail shops. This proved the manifest inequality and injustice of the mode of assessment which had obtained; and what was still stronger, he believed that those persons, whose opinions it was natural to imagine, upon such an occasion, would be consulted, he meant the Crown lawyers, had not yet made up their minds upon the act itself, so as to decide with any thing like a fixed opinion, what description of houses were liable to be assessed to the tax, and what were not. Another proof of the partiality and injustice of the tax was already in the possession of that House; because, when they considered that three years had elapsed since it became a tax, and looked simply at the produce of different places, they would see the enormous weight of the tax which had fallen upon the city of Westminster. The city of Westminster, and he spoke of the city of Westminster purely, without taking into the reckoning the purlieus of Marybone, Bloomsbury, and other adjacent districts, paid more than the whole city of London; and London and Westminster together, paid more than three-fourths of the whole produce of the tax. Another objection to the tax was, that, after three years continuance, it did not appear to be a growing tax; on the contrary, it was evident, from the papers before the House, that the produce of the tax in Westminster alone, as he had just described it, for the last year, fell four thousand pounds short of the produce of the tax in Westminster for the preceding year. Now, though four thousand pounds was no great sum, yet, when it was considered that the tax was originally taken for no more than forty thousand pounds, it was by no means to be regarded as an inconsiderable defalcation.—It had been said, that clamour against a tax ought not to induce a chancellor of the exchequer to give way. Undoubtedly, Mr. Fox admitted that it ought not, and if the shop tax had been resisted and opposed on the ground of mere clamour, he should have thought that the giving it up was a dangerous example; but, in this case, it was evident that cla-

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mour had not been the ground of opposition, nor had any procedure like party spirit or political prejudice, in favour of one set of men rather than another, been the motive of opposing the tax: so far from it, wherever the sense of the people could be taken upon the shop tax, as at an election, and on other public occasions, it had not been the ground of clamour of one political party, but a general contention which should prove itself the greatest enemy to the shop tax. Many taxes had passed that House, which had been opposed, and which had raised much clamour at first; but it had happened that, in proportion as the effects of such taxes had been ascertained by experience, the clamour had subsided, and the tax had been regularly paid without murmuring. The case with the tax in question was different; since, after three years, the clamour had strengthened and increased, and the opposition had been uniformly the same. There could be but two ways of accounting for this; the opposition and complaint against the shop tax must either come upon the ground of reason and of truth, and instead of a tax upon the public in general, in their capacity of consumers, the tax was a capricious penalty, if he might so phrase it, on a certain number of persons, for exercising a lawful and honest trade; or, if it were not that, it was the interest of the shopkeepers to oppose it. Whether, therefore, the clamour was attributed to a principle of reason and truth, or to the interest of individuals, it was equally fit that it should be repealed, because the argument that the tax alighted upon the consumer, fell to the ground in both cases. He should therefore beg leave to move, "That the acts of the 25th and 26th of his present Majesty, imposing a tax upon retail shops might be read." The same being read accordingly, Mr. Fox moved, "That leave be given to bring in a bill to repeal the said Acts."

Mr. *H. Thornton* thought it his duty to declare, that he perfectly agreed in opinion with his constituents, in declaring the shop tax an unjust, partial and oppressive tax. There were many reasons which strongly urged the propriety of the repeal; one of these was, the utter impracticability of assessing the tax, so as to make it bear equally on the shopkeepers. Of this it had fallen to his share to have had undeniable proof; and where such an objection lay against a tax, it was in the highest degree unjust to persist in its continuance. Another argument against the tax was, the rooted degree of detestation in which it was held by shopkeepers of every description. The Chancellor of the Exchequer's best friends were avowed enemies to the tax. He hoped, therefore, that the right hon. gentleman would give way to the general wishes of the shopkeepers of London and the borough of Southwark; indeed, from what he had heard, his expectations were, that such would be the right hon gentleman's conduct; and therefore he would content himself with seconding the motion.

Lord *John Townshend* rose in compliance with the wishes of his constituents, who were desirous to have the shop tax repealed. The House had been told that the tax was warranted by the necessities of the state, and that the tax was not oppressive, because it did not fall on the shopkeeper, but on the consumer. If this were the fact, he should be ready to admit that the opposition to it was most absurd. It was well known to be the spirit of trade to find a redress for every grievance. He conceived, therefore, that the tax did fall on the shopkeeper, and not on the consumer, from the very circumstance of the shopkeepers not having been able to find a redress for the tax. Indeed, it had been demonstrated, that there was no possible means of transferring the tax from the shopkeeper to the consumer; the only mode by which it had ever been contended that the shopkeeper could reimburse himself was, either by laying it upon particular articles, or generally distributing it upon the whole of the articles sold in his shop. Either of these modes would prove extremely difficult, and might expose a shopkeeper to be undersold by his neighbour, and thus injure the custom of his shop. It had been often insinuated, that, with regard to the clamours against the tax, there was a certain kind of dignified obstinacy necessary to the Chancellor of the Exchequer; but, on the present occasion, he hoped it would be dispensed with. What had been the case of the receipt tax? There had been a clamour against it, which, in three months, was heard of no more; but, with regard to the shop tax, after three years, the discontents had rather increased than subsided. He was happy, however, to learn, that the right hon. gentleman was likely to consent to the repeal of this odious tax.

Mr. *Pitt* admitted that the question

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upon which they had been at issue, respecting the shop tax, had rested precisely on the grounds stated by the right hon. gentleman. There were other questions respecting it which took up the attention of the House; but he had uniformly declared, that he thought the tax would not fall upon the shopkeeper, but be paid, in the end, by the consumer. He certainly entertained no other idea, and as far as he could form a judgment of it, from what he had heard in argument, separately from practice and experience, his mind was not yet satisfied that the shopkeeper could not find any mode of indemnification; but he agreed, that the uniform opinion of the shopkeepers, who had acquired experience upon the subject, denied the truth of that sentiment; and the continuance of that opinion, for so long a time, was the strongest argument to induce them to believe, that the shopkeepers had not been able to find a mode of indemnification, and that mere theory and argument ought not to prevail against practice. The objection and complaint were not confined to any particular descriptions of shopkeepers, but were urged by the shopkeepers in general; and where there was a coincidence of opinion against a tax without distinction of party, and when those who gave the most striking proofs of their desire to lend their support to government, joined in objecting against the tax, it must have great weight. For these reasons, though he considered it to be his duty, generally, to resist any attempt to decrease the revenue by the repeal of taxes, objected to by persons who were most likely to be affected by them, and though as far as argument went, he had heard nothing to induce him to change his own sentiments, yet when he learnt the opinion of those who had been able to try the effect of practice to be the same at the end of three years, he thought it no longer proper to oppose their feelings, and therefore should not resist the motion.

Sir *B. Hamnet* said, that having been the first in that House to point out the partiality of the tax, at the time when it was proposed, he now congratulated the House and the country, on the prospect of its repeal.

Leave was given to bring in the Bill; which afterwards passed the House without opposition. In consequence of the repeal of the shop tax, the additional tax and restrictions which had been laid upon hawkers and pedlars were also, upon a motion of Mr. Dempster's, taken off.

*Debate in the Commons on Mr. Hastings's Petition complaining of Words spoken by Mr. Burke in Westminster Hall.**] April 27. Major *Scott* rose and said: I have in my hand, Sir, a petition from Mr. Hastings, complaining of the conduct of a member of this House, and stating, that on opening the impeachment which this House had carried up to the Lords, an hon. manager had stated a variety of matter, wholly extraneous from the articles, containing allegations infinitely more criminal; and that the extraneous matter alluded to, was wholly false and unfounded. The prayer of the petition is, that Mr. Hastings may be allowed to defend himself against such allegations, or that he may receive such other redress as this House, in its justice and wisdom, may think due to him. I assure you, that my respect for this House would prevent me from presenting a petition of this nature, were I not fully convinced, that the extraneous matter alluded to in the petition, was wholly false and unfounded, and were

* Soon after the opening of the session, on the 3d of February, Mr. Hastings presented a petition to the House of Lords, in which, after recapitulating the proceedings which had already been had from the commencement of the impeachment, he stated the great hardships to which its extraordinary duration had and was likely still farther to subject him. Amongst these, he mentioned the decease of several of his judges, the detention of witnesses necessary for his defence, the probability of his being deprived of many of them by various accidents, his health impaired, and his fortune wasted. He reminded them, that two articles only, out of twenty, had as yet been gone through by his accusers, that his expenses had already exceeded 30,000*l.*; and consequently, that should his life be continued to the close of the trial, he might find himself destitute of the means of defence, and even of subsistence, and run the dreadful chance of having his character transmitted on their records blasted with unrefuted criminations. He therefore prayed that they would enable him to make his innocence, and he hoped his deserts, apparent, by proceeding without delay upon his trial. The intervention of the circuits of the judges rendered it impossible for the Lords to proceed upon the trial before the 20th day of April, when the court was resumed, and sat, during the remainder of the session, seventeen days. The charge brought before them, and opened by Mr. Burke, was that relative to the corrupt receipt of money.

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I not prepared to prove it to the satisfaction of the House. Gentlemen will recollect, that the proceedings which led to the impeachment, commenced in February 1786. In that session the Benares charge was voted, much difference of opinion prevailing as to the degree and point of criminality in it. In the next session, many other charges were voted, and a committee appointed to draw up articles. It is a fact, which a reference to the Journals will prove, that thirteen of these articles were voted without the House having seen them. I was the only member, the manager who presented them excepted, who had seen them. I mention this circumstance now, merely to show the unbounded confidence which the House reposed in their committee: the House then conferred upon them the power to send for persons, papers, and records, that they might be prepared with such evidence as might elucidate truth: and not by garbling particular passages, to raise a temporary impression against the defendant. —The impeachment was opened last year by the hon. manager (Mr. Burke). In the course of his opening, he introduced a story, known by the name of the History of the three Seals, and Meeran's death. In what I am going to say, I wish to preserve the respect which is due to the House, but I affirm, in the most solemn manner, that in so far as the manager implicated Mr. Hastings in those stories, he was guilty of cool, deliberate, systematic, and intentional misrepresentation. The next story mentioned in the petition, was that of Deby Sing. This the hon. manager told to a very full auditory; and very many of the members now present, who were in Westminster-hall at the time, must recollect the dreadful effects which were produced by so horrid a detail of cruelties. I have taken much pains to make myself completely master of that business. In the first place, I called upon the clerk at the India house, who attends the hon. manager to put into my hands a faithful copy of those documents with which the manager was supplied when he spoke. I then procured from Mr. David Anderson an account of the evidence which he had given to the manager himself on this subject; and after a most attentive perusal of the whole, I am warranted in affirming, that if the cruelties charged upon Deby Sing had been true, the hon. manager knew it would be impossible for the malice or ingenuity of man to bring them home to Mr. Hastings; but what is again extraordinary is this, that it appears incontestibly, by later advices from Bengal, that the dreadful cruelties stated by the manager, never were committed at all. This appears after a most solemn investigation, made by three gentlemen upon oath, during the government of sir John Macpherson, in whose appointment or report Mr. Hastings could have no sort of concern. Sir, I was struck so forcibly by those facts, that last year I wrote a letter to another right hon. manager, whom I believe, in my conscience, had no participation or concern in so gross a misrepresentation. In that letter, I detailed all the circumstances very fully; but I was told, that pending the trial, it would be improper to publish it. After presenting this petition, it would be improper to withhold it, and it shall appear immediately. I know how far I commit myself; I cannot presume to say, that if I have been wrong, it is not for want of pains to be right. No man living ought to say what I have done, if a doubt remains upon the subject. I have well considered it, and from the manager's own materials I establish the truth of my assertions; if I do not, I ought to walk out of that door, and never be permitted to enter at it again. I wished the manager himself to call for the letter, as I had so freely spoken of him, but he would not do it. Perhaps it may be urged, that these facts should have been complained of earlier. The counsel of Mr. Hastings had once endeavoured to do it, but were interrupted by a right hon. manager, (Mr. Fox). The managers have repeatedly declared, that they spoke by instructions from the House, and that they never would advance a syllable, which they were not ready to prove; as, therefore, the extraneous matter which the opening contained, represents Mr. Hastings in a point of view infinitely more criminal than any allegation in the articles which the House have voted, I appeal to the justice and honour of the House, either to bring forward this matter in specific articles, or to afford some other redress. The House must know the light in which this matter appeared elsewhere; that it has been the subject of conversation throughout Europe; that it was believed to be true, and could be brought home to Mr. Hastings; when it now turns out to be false in fact: but had it been true, it never could have affected the petitioner in the smallest degree. The next complaint is in the case of

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Nundcomar. The words are fresh in the recollection of every gentleman. I shall not detain the House further; but merely move "That the petition be brought up."

Mr. *Fox* said, that it was not his design either to resist the motion of the hon. member for bringing up the petition, or to enter into an extensive field, for the purpose of scrupulously investigating its contents. The predicament in which he stood, rendered it necessary that he should be cautious of incurring the charge of partiality. He wished, therefore, the propriety of the measure to be considered by those who were not managers of the prosecution, and who, upon that account, might be regarded as less interested in its contents and in its object, and consequently more impartial. He rose to state the bad tendency of it, not to that House in the present instance merely, but to future prosecutions of that House for ever and for ever.—There were three distinct points to be considered in respect to the present petition: first, the subject matter of the complaint; secondly, who it was that the complaint was made to; and thirdly, who the person was that made the complaint. The subject matter of the complaint consisted of certain words and expressions said to have been used, and directly charged with having been falsely used by members of that House, at the bar of the Houseof Lords. He could not imagine that it would be admitted that the House attended in Westminster-hall, not for the purpose of appearing as prosecutors, countenancing and supporting the managers employed by their authority to urge the charges, and adduce proof in support of them, against the person impeached, not for that of taking care that justice was done them, but for the purpose of cavilling as an adverse party at the conduct of their own managers. With regard to the second point, to whom was the complaint made? It came not where all complaints of unjust treatment of a defendant ought to be made to the tribunal that tried him, to the judges, and to the court that was to decide, and which alone was competent to relieve the party in a case of real injustice, but it came to the accusers, to the prosecutors themselves, who had no power to afford redress, if necessary, and whose duty it was to pursue the culprit, and prosecute him to punishment. As to the third point, who was it that preferred the complaint? Mr. Fox said, he should have been mortified, indeed, if his conduct, and that of any other of the managers, had been found fault with by the right hon. gentleman over against him, or those who had professed themselves to be warm friends to the prosecution. But, who was here the complainant? Not a member of the House of Commons, not a member of the House of Lords, no person of either description, but the culprit himself, who came forward to object to the mode of proceeding against him. Should such a complaint be listened to? and should the party accused be suffered to arraign the conduct of his accusers, addressing his charge to them? It would prove a deviation from every known and established rule; it would introduce a new system of proceeding; because it was altogether unprecedented for those who were the accusers, to hear the culprit in the manner of an accuser of themselves, complaining of the mode of prosecution which they had thought proper to adopt, as likely to answer the ends of justice in the most effectual manner.

Mr. Fox proceeded to call in question the motive and the mode in which the hon. gentleman who had introduced the petition had opened it to the House. He denied that the words quoted by the hon. gentleman, as having passed between the counsel for Mr. Hastings and himself, at the bar of the House of Lords, were correctly stated; and he added, that it generally happened, that when that hon. gentleman undertook to refer to facts, he seldom was very correct. Whenever the managers had done what the counsel for Mr. Hastings had thought improper, he asked whether those learned gentlemen had not appealed to the House of Lords, and whether the House of Lords had not always afforded them redress, if they were founded in their appeal? They had done so in various instances. With regard to what had passed between one of the learned counsel and himself, he had not objected to the substance of the learned counsel's argument, but to the manner of it. The learned counsel's objection appeared to him to be sufficiently proper, but his mode was that, which, as a manager of the prosecution, on behalf of the Commons of England, he had conceived that he ought not to submit to; and the House of Lords had proved that he was right in so thinking, by informing the counsel that they must not speak of the managers for the House of Commons in

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such a way. [Major Scott shook his head.] Mr. Fox said, the fact was as he stated it, let the hon. gentleman shake his head as much as he pleased. The hon. gentleman, he observed, had pledged himself for the truth of what he had asserted; let him pledge himself as much as he pleased; he by that altered no one fact in the smallest degree. Had not the hon. gentleman pledged himself to the House again and again, and had not every one of the occasions proved, in the event, how little his pledge was to be relied on? Did he not say, in an early part of the present business, "Produce the articles before the House, and I'll pledge myself to prove every one of them false, so that the House will necessarily reject them altogether?" Had not the event turned out the very reverse? Had not the House voted them to be articles containing matter of criminal charge, and had not the House proceeded to an impeachment? But, such was the hon. gentleman's eagerness to pledge himself, that he pledged himself for what he had not the smallest chance of proving. Had he not that day pledged himself to a universal negative? Had he not taken upon himself to prove the rash and extravagant assertion, that no one member of that House had read thirteen of the charges but himself?

Mr. Fox said, he begged pardon of the House for having suffered himself to be betrayed into so much warmth, but it was a warmth excited by an attempt, which he trusted would be abortive, to fix a personal insult on his right hon. friend, and to cast an imputation on his character. By the coarseness of the manner in which the attempt had been made, he was persuaded that this, and this only, was the object. If it had not been a mere pretext, why not take the usual means of obtaining redress, if an injury were really conceived to have been done by either his right hon. friend, himself, or any other manager? Did not every member of that House know, that not only in the House of Lords, but in the most inferior court in the kingdom, if there was any thing wrong in the conduct of a cause, the counsel for the prisoner might object against it, and the court, if the appeal appeared founded, would grant immediate relief? With regard to words spoken elsewhere, was it not acknowledged, that no notice could be taken of words spoken in a former debate, nor even in the same debate, because no reliance could be placed on the correctness of the words complained of, unless taken down on the moment of delivery? Much less could notice be taken of words spoken in another place, the identity of which it was difficult to ascertain, and the drift of which it was impossible to fix, because it could not be proved that the words spoken were correctly the words which were complained of.—So much for the subject matter of the complaint. And who was the complainant, and to whom did he complain? Not to the court itself, not to the House of Lords, but to that House; and the complaint, as had been before stated, came from the culprit. That House did not order the prosecution to please the culprit. Heaven forbid that it should! Nor did it carry on the prosecution for the satisfaction of Mr. Hastings, but to punish Mr. Hastings for his bribery and misdemeanors in India, as an example to future governors-general of Bengal. In the petition, Mr. Hastings, to carry the absurdity farther, not only alluded to words spoken in another place, but at another time; to words spoken twelve months ago, to words heard in the House of Lords without objection, words delivered before the criminal himself, without being noticed by his counsel at the time. Mr. Fox maintained that Major Scott had by no means correctly stated what had been the expressions of his right hon. friend. His right hon. friend had not said a word to insinuate that Mr. Hastings was an accomplice in the murder of Meeran, eldest son of Jaffier Ally Cawn. He would not believe that the hon. gentleman had so ordinary a mind, as to conceive what he had represented to the House to be the conduct of his right hon. friend. Heaven forbid, said Mr. Fox, that I should be in a situation to be accused; but were this to prove the case, it must become my interest to wish for one of the same mind with the right hon. gentleman to be my accuser. He added, that the hon. gentleman had ventured to declare that there was not one word in the petition which he could not prove; and desired the House to frame articles upon the charges to which the petition alluded. He protested that he was at a loss to conceive how the House could listen to such a proposition, and thought it unbecoming a member of parliament, to make that House the instrument of his personal resentment and malice against his right hon. friend; for such, in his idea, was the great object of the present attempt.

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The hon. gentleman had said that his right hon. friend had misrepresented the allegations in question knowing it to be a misrepresentation. If it were so, and his right hon. friend had misrepresented the allegations wittingly, it undoubtedly would be the duty of the House to exclude his right hon. friend from any share in conducting the prosecution; but the fact was notoriously otherwise. The hon. gentleman had said that the managers had stated themselves to be instructed to speak in the manner they had done by the House of Commons; undoubtedly, they had so stated themselves, because they felt themselves to be so instructed; but they all knew, that when they stated themselves to be instructed by the House, they meant generally, and did not confine themselves to words or expressions. With regard to the charges complained of, he should ever state them as his right hon. friend had done, both in public and in private, because he believed them, and should state them by such terms as they appeared to him to deserve. He desired the House to consider the difficulties the managers had to encounter. They had to contend with a most powerful criminal; a man who, for fourteen years, possessed all the patronage of India, and who had been enabled for a long period to confer so many obligations, that his connexions at home were almost irresistible. They had likewise to contend with all the corruption of the East, and all the powers of the bar. They had to combat with other obstacles: and what had they to support them? The support of their honour and their consciences; and he trusted they would be supported by the House of Commons.

He reminded the House of the effect of individual members coming down there, from time to time, to complain of words uttered in another place a year ago, and said, if the person accused was to be in perpetual litigation with them before that House, it would be almost impossible to go on with the prosecution at all. They were, he believed, the first persons who, being known not to possess the favour and support of the House of Commons on political questions, had ventured to undertake an impeachment; but was that a reason for deserting them? He trusted it was not. As long as the ministers for the time had been the managers of impeachments, it had generally happened that the House of Commons had been blamed for their intemperance; but, never was there upon their Journals so clear a proof of an impeachment, managed by men who could have no view but a desire to do justice. There never was upon their Journals an instance so honourable to that House and to the country. He trusted, therefore, that the House of Commons would not throw difficulties in their way, but act in an open, manly, and direct mode. If they imagined that they had been betrayed, and ought not to be accusers, let them confess their error, retract, and make honourable amends to Mr. Hastings; but do not let them act a double character, do not let them at the same time be the accusers and the defenders! The hon. gentleman had said, that there had been unwarrantable delays: that there had been extraordinary delays was true; but then it was to be considered, that they had, during the present session at least, been occasioned by a cause sufficiently extraordinary to account for them. When the hon. gentleman stated that his right hon. friend had alleged what he knew not to be true, he was convinced that the whole drift of this business was to bring on a personal quarrel with his right hon. friend; and this, from a conception that he could not avoid bearing a just indignation against insult; but he begged leave to recommend to his right hon. friend to disregard any thing done with such a view. For his part, he declared, that neither the hon. gentleman nor his friends should, by any thing short of a personal attack, in the literal sense of the words, make him, or any of his friends, he hoped, produce a personal quarrel out of a public proceeding. He should consider every complaint that came from the hon. gentleman or the culprit as a personal compliment, and when he said this, he declared he did not speak of the hon. gentleman in respect of his character, but because he considered him as the agent of the accused. With regard to the motion, he was indifferent what became of it, and hoped its object was defeated: he could not, however, sit down, without conjuring gentlemen, for the honour of the House, and for the sake of justice, to consider the glaring impropriety of making the conduct of the managers, in the discharge of a public trust, a matter of personal attack.

Mr. *Pitt* said, that no man in that House concurred with the right hon. gentleman more cordially than he did in the

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sentiments expressed in the latter end of his speech. Nothing could be more improper, than to make the conduct of persons employed in the discharge of an important public trust, a matter of personal attack. The managers could not possibly find it a duty more incumbent on them to look to that trust steadily and zealously, than it was the duty of those who invested them with that important trust, to give them every honourable support. The single question before the House then was whether the petition should be brought up? and therefore it would be premature to discuss, at that moment, what should be done with the petition afterwards. He could not, he declared, collect from any thing the right hon. gentleman had said, that he meant to object to bringing up the petition; he hoped he had no such intention, because he saw not on what grounds the person accused should be debarred from the exercise of that right common to every individual subject, the right of preferring a petition, stating a grievance to that House for its consideration and disposal. He agreed entirely with the right hon. gentleman's observations on that part of the petition which referred to words spoken in Westminster Hall, in the course of the last session; he could not conjecture why, if Mr. Hastings thought the utterance of those words an injury, he should forbear to complain of them for so many months. They were words which, if fit to be stated as a grievance and a departure from the instructions by the House to their managers, ought to have been complained of the very next day that the House met after they were spoken, or not at all. The right hon. gentleman however, had represented it as an undeniable principle, that any words however injurious to the party of whom they are spoken, cannot be properly made matter of complaint at all. He declared he did not think that was a position which any man could maintain. He was far from being of opinion, that when that House had given the managers certain powers necessary to enable them to conduct the prosecution of an impeachment with effect, they had at the same time, given them unlimited powers to introduce what additional charges they thought proper; neither could he admit, if the managers exceeded the due bounds of their authority, that the House of Lords could always redress the grievance and cure the injury. There were cases in which an injury might be done to a person upon trial, in such a way that their situation might render it impossible for them to redress it. What did an injured man desire, but satisfaction for an injury done him? Could the House of Lords always give it him? Suppose in a sentence consisting of a line and a half, and uttered in a few seconds, words were said that charged a man with murder. Could the House of Lords redress it, after the words were uttered and the injury done? There must, therefore, be cases in which the House of Commons might inquire into the conduct of their managers. Let not the House establish the only principle that could lessen its credit. Let it not stop its ears to a complaint, which stated that Mr. Hastings had been specifically charged with the murder of Nundcomar. The House of Commons did not mean, because they accused Mr. Hastings of one thing, that he was to be accused of another; they never intended because he was accused by them of taking bribes, that he was to be accused of having committed murder. There was certainly a broad distinction between the allegation of the petition that referred to what had passed last session, and the allegations that had reference to a specific charge of having been guilty of the murder of Nundcomar. Neither the subject of the complaint was unjust, nor was the time of making it objectionable. Had any strong words, in which a charge had been made, proved the only ground of complaint, he granted, it would have been trivial; but the fact was otherwise; the charge was that of a most atrocious crime; it was recently made, and the very next day that the House met, Mr. Hastings petitioned; he therefore had seized the earliest opportunity of preferring his complaint, and the petition would probably then have been received had not the right hon. gentleman been absent through indisposition. He agreed with the right hon. gentleman that the House's refusing to prefer an impeachment against a man, was neither an acquittal nor a proof of his innocence of the fact laid to his charge; but when it was considered, that this murder of which he had collaterally accused Mr. Hastings as an accomplice, was the same as that touching which the House refused to charge sir Elijah Impey as a principal, it was surely matter of no slight presumption that the House would not have been

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willing to have voted it as an article of impeachment against Mr. Hastings, that he was an abettor in that fact, with respect to which they did not think proper to impeach sir Elijah Impey, who had been stated to be the principal. The object of their accusation would never cease to be the object of their justice. Mr. Hastings, or any other person accused by them, was entitled to protection, and they would neither do justice to the party accused, to the managers, nor themselves, if they refused to receive the petition, and inquire how far the complaint was founded.

Mr. *Burke* began with declaring, that he did not find himself inclined to solicit either their candour or their indulgence, because indulgence was only to be bestowed where there was error, which he was not conscious he had committed. He desired not to be excused on account of his good intentions, being perfectly satisfied with his own conduct, and at a time of life to look for approbation beyond that of the day —the approbation of a generous posterity. The satisfaction, however, of his own mind, was no reason why others should be satisfied with his conduct; and, as he held it to be a duty which every man owed to a great body to which he belonged, to give a statement of his conduct, he would offer the House an explanation. It never could have been a matter of less difficulty to him to comply with his right hon. friend's request, and abstain from heat, than it was at present; he felt not the smallest inclination to depart from the bounds of moderation and temper; the prosecution had never been carried on by any heat of his; for enthusiasm, though it might be good at the beginning of a business, vanished like a vapour as the business proceeded, and was soon gone. If after the explanation he was about to give in the plainest phrase, the House should choose to continue him in his trust as a manager, he would continue to execute it to the best of his abilities; but if, on the other hand, they thought it right to censure and remove him, he would receive it as a personal favour to himself, since it would be to remove him from an arduous undertaking, far above his natural strength, which nothing but their support could have enabled him to sustain, and which had nearly exhausted him; and therefore his removal would restore him to a state of ease and tranquillity. The censure of the House of Commons, great and awful as it must be deemed, could not have any deep effect on his mind; if, therefore, it should be passed upon him, he should feel for the honour of the House, rather than for his own. They had appointed him to go up to the bar of the House of Lords with the articles of impeachment; he was sensible of the honour, and had ever since assiduously endeavoured faithfully to discharge the duties of the high trust reposed in him. He had now proceeded to the most important charge, perhaps, in the whole catalogue, that of bribery and corruption; and, in the middle of his speech on that charge, when the prisoner felt himself pinched and that he was in danger of being immediately overwhelmed, with a policy peculiar to himself, he had resorted to his old arts—arts practiced by him with so much success in India—and shifted his character. "Thus," said Mr. Burke, "do I find myself called upon of a sudden to defend myself, to take my turn as a person accused, and in this age of dancing, to turn about, right and left, cross over, figure in, and change places. To day an accuser, to morrow a person accused." He declared he gave Mr. Hastings full credit for his prudence. He admitted that it was the best step he could possibly have taken in his present situation; at a time when all the powers of darkness must have been invoked in vain, he became from the accused the accuser. Mr. Burke was extremely pleasant on this change of situation. He seriously, however, lamented the ridicule that must fall on the House, if such an attempt should be countenanced of making him stand his trial to day in the Commons, and to-morrow proceed to Westminster-hall as a manager and accuser of Warren Hastings on his trial. He was not, he said, young and supple enough for this dancing to the right and to the left; he could not bear it, and entreated the House to unyoke him.—He produced the Morning Herald of last year, containing the account of a bill made out for the publication of articles sent by major Scott, and made considerable sport of the total, and several of the items. He said, the hon. major over the way, who had declared his authorship, had never been able to make him take notice of his productions, because that would have been to have quitted the great game he was pursuing, and to have followed vermin. Whether it was from want of taste, or want of curiosity, that he did not read the hon. major's writings he could not tell; but the fact was, that he had not looked into them. He read an extract of

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the account, which he held in his hand, one of the charges of which was "attacking Mr. Burke's veracity, *5s. 6d.*" He laughed at the idea of his veracity being rated no higher. The shillings total being *7s. 6d.* he ridiculed major Scott's publication as a seven and sixpenny matter, and said it had formerly been the custom for all good authors to receive reward for their literary labours, and he well knew professor Robertson and Mr. Hume had large sums for their histories, but Mr. Hastings's writers paid largely to have their writings published. It had been his practice to let them go on, and despise their noise, from the chattering of the Jackoo, to the roar of the Lion.—Mr. Burke then took notice of the defence of Mr. Hastings, delivered in by that gentleman, and afterwards declared to have been written by commission, by major Scott and Mr. Baker, who drew it up without Mr. Hastings's knowing any thing of it. Mr. Hastings had since disowned and forsworn it. He next proceeded to the explanation he had promised. He admitted, that he had charged sir Elijah Impey with the murder of Nundcomar through the instigation of Warren Hastings, and justified it, as being led to it, in stating one of the acts of bribery, namely, that with the Munny Begum, which bribe passed through the hands of Nundcomar, who was murdered by the deliberate arm of the law. He said, if the House censured a manager, they ought not to hear him a single word more, but they ought at the same time to remove him, when they censured him. He compared the powers given by the Commons to the managers to proceed against Mr. Hastings with the charges, without a right to use one extraneous word, to the giving Shylock the power of taking a pound of flesh, upon condition of his not spilling one drop of blood; a task which neither Jew nor Christian could perform. He entered into an account of the proceedings before the Lords, to show the necessity he was under, in order to make the business intelligible to them, to narrate the whole history of the country, in doing which he said he had to state the revolution that happened, the persons concerned therein, the mock trials and collusive acquittals, which could not fail of representing the whole of Mr. Hastings's conduct to be a tissue of crimes.

Mr. *Windham* said, that, in his opinion, the petition ought not to be received, because it was not grounded on such facts as could authorize the House to give any redress. For, what was the nature of the petition? It was not a complaint from any member of that House, from whom the hon. managers derived their authority, but a petition from the culprit, complaining of words being spoken which were extraneous to the question at issue, perhaps it was impossible for any man in the situation of his right hon. friend, in the course of a speech which embraced such a vast variety of matter to avoid introducing discussions that did not immediately relate to the charge. In proving a murder, for instance, it might sometimes happen that other crimes might be perpetrated by the person accused, which it was necessary to mention, that the chain of evidence might be complete. With respect to Mr. Hastings, the tribunal before which he was tried was the only one competent to interpose; and he had no hesitation in saying, that it was highly disrespectful to that honourable court, to suppose that they could suffer words to be spoken which were improper, and which were deemed a subject of cognizance by the House of Commons, and a ground of censure. For these reasons, he was decidedly against giving the smallest countenance to the petition which was calculated not only to hurt the prosecution, but was extremely dangerous as a precedent.

Mr. *Fox* wished to know, if the Petition should be agreed to be brought up, in what manner gentlemen meant to identify the words. If the managers were to be called upon to explain the drift of every speech they might make, it would not only prove a new but a fatiguing task. If the managers had done wrong, let the House employ others.

Colonel *Phipps* laid down the distinction between defamation and accusation. The former he defined to be throwing out charges of a criminal nature, with an intention not to support them, but to leave them on the minds of the jury and the public, in a state in which the defendant could not reply to them; whereas, accusation, was a regular specific charge, to be proved by evidence, and capable of defence on the part of the person accused. He denied the doctrine, that if a man was charged with a murder, he might be accused on his trial of felonies of lesser enormities.

Sir *James Johnstone* declared himself one of those who thought that Mr. Hastings deserved punishment, and said that he was sorry to see he had it not. He thought the House of Lords competent to

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protect the prisoner from any unfair proceeding on the part of his prosecutors, and said, though all the Lords were not wise enough to know when the managers went too far, the Lord Chancellor was placed there for the purpose, and was adequate to his situation. Therefore, he thought the petition ought not to be entertained.

General *Burgoyne* defended the accuracy of the Reports of the Committee of which he had been chairman, when the story of the three seals was investigated, and the conduct of general Caillaud inquired into. He extolled Mr. Burke's benevolence and philanthropy, and declared, he verily believed the present attempt arose only from personal motives of insult and affront, intended to be cast on his right hon. friend. He reprobated the attacks made upon Mr. Burke from holes and corners, and from papers bought by the inch. He said, that he who had hunted a lion into the toils, was not to be diverted from his purpose by the buzzing of gnats.

Sir *Richard Sutton* would not admit the facts stated in the Report to have been facts proved. He approved of the Petition; as the House of Commons had given the authority to prosecute, they were the properest persons to apply to if their authority was exceeded.

Mr. *Fox* contended, that the Petition was without precedent in the annals of parliament. If it was to be received, it was proper that the House should know what kind of evidence was meant to be adduced to identify the words of the managers. It was absurd to say, that the accuser was to be satisfied with whatever words the managers themselves might choose to avow. Every part of the Petition was new, except the spirit of it coming from Mr. Hastings, whose constant practice, throughout his whole life, had been to become the accuser of his accusers. Nundcomar had been the accuser of Mr. Hastings—Nundcomar was tried on the accusation of Mr. Hastings for a forgery, and executed. The managers, in the present instance, might probably have shared the same fate, had sir Elijah Impey been their Chief Justice. If the managers had failed in the execution of their duty, let them be removed and others appointed in their room; there were many gentlemen well qualified for the task, and whoever undertook it would find that he, and those with whom he acted, would not play the same game that had been played against them. They would find them the zealous supporters of a cause, in which not only the dignity of parliament, but the honour of the national character was at stake. But if, after the fatigues of their duty in Westminster-hall, they were only to be obliged to defend in that House, every word in their speeches, which the prisoner at the bar, or his agents, might think extraneous or irrelevant, he thought it would be better if the House were to appoint a committee, consisting of the hon. major and his friends, or Mr. Hastings himself, to revise and correct the speeches of the managers before they were spoken, lest any expression might be introduced which might be hurtful to his feelings. He could not but congratulate the hon. major, on the support of a measure which he firmly believed was calculated to throw contempt and ridicule on their proceedings: but he trusted the House would not desert those whom they had delegated for the execution of a task of such an arduous and complicated nature. The honour and character of the Commons were involved in the conduct of their representatives, who, from the peculiar situation in which they stood, were entitled not only to the protection but the indulgence of the House. It was absurd to say, that in a criminal charge, nothing was to be alluded to, which did not immediately relate to the charge. Suppose, for instance, a man was indicted for murder, and it afterwards appeared, that to accomplish that murder, the culprit had broke open the house. The counsel for the prosecution mentions this fact, but is immediately stopped by the prisoner, "You are not to mention a syllable of the house breaking, because that of itself is a crime." Upon the whole, Mr. Fox hoped that the House would not be disposed to countenance a petition, presented under the circumstances which he had stated.

Mr. *Addington* rose principally to disclaim the motive imputed to those who were for receiving the Petition, namely, a disposition to make a personal attack on the hon. manager. No such sensation had a place in his mind: his wish was, that the House should preserve its character for impartiality and strict justice. Was the situation of Mr. Hastings, as an accused person, oppressed, perhaps, by the weight of his crimes, a reason for excluding him from a privilege which be-

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longed to the meanest member of the community? Whether the powers delegated to the managers had or had not been transgressed, would be a subject of future consideration: all he contended for at present was, that the Petition ought to be received. He thought the character of the House and of the country was materially involved in the conduct of that prosecution; that a great degree of confidence was certainly due to the managers engaged in an undertaking so arduous; but that it was incumbent on the House to prove, that the object of its accusation was not placed out of the reach of its justice.

Mr. *Anstruther* contended, that there was no way of judging of the import of the expressions said to be used, but by comparing it with the context. For that purpose, it would be necessary to have the whole of his right hon. friend's speech before the House. The next step to be taken, would be to go into a proof of the allegations contained in the Petition, which would lead to a counter-proof on the part of the managers. He opposed the bringing up the Petition.

Mr. *Pulteney* was of opinion, that the House of Lords were the proper tribunal to which Mr. Hastings ought to have applied for redress. Every court had a discretionary power of checking improper expressions which might drop from the counsel at the bar. He considered the Petition as one which ought not to be entertained.

Mr. *Burton* said, that the petitioner ought to be heard. He considered as a parallel case, that of an advocate's proceeding too far against a defendant, and the defendant applying to the employer of the advocate, to restrain him within due limits.

Major *Scott* said:—Allow me to say a few words, in reply to the personal remarks that have been made upon me. The facts that I have stated lie in a very small compass. But the House are told, that no attention is to be paid to me, because I have been in the habit of abusing members of this House; and a ridiculous article is read from a newspaper, stating that the right hon. manager's veracity has been written down at five and sixpence a paragraph. I am much obliged to the gentleman for giving me so fair an opportunity of stating this matter fully to the House. I declare solemnly, that no bill, containing such items as the manager has read, or any items at all, ever was sent to me from the Morning Herald, or any other paper; but it is true, that between April 1782 and December 1783, I paid the sum of money mentioned; the rest of the Bill is a mere fabrication, to which no man living can give serious credit for a moment. I will now explain to the House how I came to pay the editor of the Morning Herald such a sum, or any sum at all. Gentlemen will recollect, that from April 1782 to December 1783, there was a regular systematic plan carried on, for depriving the East India Company of its rights, and for removing Mr. Hastings from the government of Bengal. This scheme would have been effected in December 1783, if Mr. Fox had carried his Bill. In all this period, I was the acknowledged agent of Mr. Hastings, acting in concert with a great number of the most respectable proprietors of East India stock, in defence of the Company, and the Governor-general of their choice. Various publications appeared in that period, which of course were paid for, in the Morning Herald, and the account of the totals only was sent to me, which, at this moment, are in my possession, being mere memorandums on small slips of paper; but if a bill had been made out, with a specification of particulars, one of the most material articles would have been, "Paid for the insertion of the speech of Mr. Anstruther," that learned gentleman having spoken most ably in favour of Mr. Hastings, before a very full court of proprietors. An hon. general accuses me of attacking his reports. I have not attacked them; but what I have said, I will repeat. I affirm, that the hon. manager, in so far as he implicated Mr. Hastings in the story of Meeran, or the Three Seals, was guilty of cool, deliberate, and intentional misrepresentation, and I will prove it at any time. Of general Caillaud I said not one word; I purposely avoided it, because the subject is not before us: but since the hon. general talks so much of the accuracy of a report, which was not attacked, and avows himself to be the composer of it, I ask that hon. general, how it happens that he has omitted to enter one half of this story of the Three Seals in his appendix? I suppose it was from carelessness; yet, as the hon. general plumes himself upon his accuracy, I desire to tell him, that he has been very inaccu-

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rate. No answer has been given to my statement of the business of Deby Sing; no answer can be given to it: but I will take effectual care, that I am not diverted from the statement of it, in the plainest and most unequivocal terms. A manager of the House of Commons, speaking in their name, and professing to speak by their instructions, comes forward in Westminster-hall; he gives a very long detail of cruelties exercised upon certain people in Bengal, which persons of all ranks, descriptions, and ages hear with a mixture of sorrow and indignation; horror sits upon every countenance; several ladies are carried away fainting; and the court breaks up in the utmost confusion. The story circulates throughout every corner of Europe; it is perpetuated by a print of the high court in Westminster-hall, where the manager is represented as speaking; ladies as fainting, or dissolved in tears; and the managers with marks of the deepest anguish and distress in their faces; yet I will prove, that at the very moment the manager told these tales, he knew that if they had been true, Mr. Hastings could not have been made responsible; I will prove, that after a very serious and solemn inquiry, in the government of sir John Macpherson, the most dreadful of the stories turned out to be totally false. Whether such calumnies, circulated in the name of the Commons of Great Britain, are unworthy notice, they are to judge; I have performed my duty, after presenting the Petition, by stating them; nor shall any measures which those opposite to me can take induce me to retract one word: on the contrary, I will take every means in my power to publish every circumstance to the world.

Mr. *Fox* appealed to the Speaker, to know whether he meant such personal invectives and ungentleman-like expressions to continue to pass in that House? He called for the protection of the House for the managers against the repeated revilings and insults of the agent of the accused.

The *Speaker* said, he conceived it to be the practice of the House, when any words of a member were deemed disorderly, to stop the member when he uttered them, and having the words taken down, to take the sense of the House upon them. He regretted much the warmth that had discovered itself so generally in the debate, and if any member had appealed to him, he would have stated his opinion on its impropriety.

The question was then put and carried, and the Petition of Mr. Hastings was presented to the House, and read; setting forth,

"That the petitioner was impeached by this House, before the Lords spiritual and temporal in Parliament assembled, on a charge of high crimes, and misdemeanors, contained in certain articles exhibited according to the just and proper usage of Parliament, and was required by the Lords to give in his answer to the same, a competent time being allowed him to prepare it, and which answer he delivered accordingly; and that the managers appointed by the House to carry on the prosecution, not confining themselves to the articles of charge, which were especially exhibited against the petitioner, and to which he was required to deliver his answer, and had so answered as aforesaid, did, in the last year, introduce certain allegations in the course of their proceedings, which not only were not contained in, nor bore any immediate relation to the said articles of charge, but were wholly extraneous and foreign from them, although they were of such a nature as, if true, would have rendered the petitioner infinitely more criminal than any thing contained in those which had been formerly exhibited against him; and that the allegations to which the petitioner more particularly alludes, were as follows:—that he was concerned as an accomplice in a plot, alleged to have been formed for the purpose of assassinating the Shahzada, or Prince of Hindostan—that he was concerned as an accomplice in procuring the death of Meeran, the son of the Nabob Jaffier Ally Cawn—and that he was the author and instigator of various acts of oppression and savage cruelty, alleged to have been committed by a man named Deby Sing, under the appointment of the petitioner; and that the trial, after an adjournment of upwards of ten months, was re-commenced on the 21st instant, and the article, intituled, "Presents," opened by the right hon. Edmund Burke, in the name of the Commons of Great Britain, and the said right hon. manager, in like manner as in the preceding year, introducing many allegations, foreign from the express charge, did, in direct terms, charge the petitioner with the horrid crime of murder, using the following words, 'He,' meaning the petitioner, 'murdered that man,' (alluding to Nundcomar) 'by the hands of sir

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Elijah Impey:' That the said right hon. manager, and the other members appointed by the House with him to be joint managers of the prosecution, have, at various times declared, that they spoke by instructions from this House, whose representatives they were, and that they should allege nothing which they were not prepared, and willing, to prove: that it would not become the petitioner to suppose that such allegations so made in the name, and by the representatives of this House, were not made by the command of the House, although no charge containing them has been yet preferred against him; the petitioner therefore declaring that the above recited accusations are all untrue, and utterly unfounded, most humbly appeals to the justice of the House, and prays that such of them as properly fall within the immediate cognizance of the House, may be brought forward, and prosecuted, in specific articles, and that, in respect of the rest of them, such other mode of prosecution may be directed or the means adopted by the House, as may enable the petitioner to make the refutation of the several matters of grievous crimination as public as the charges themselves have been, or that the House will afford him such other redress in the premises as to the House shall seem meet."

On the motion, that the Petition do lie on the table,

Mr. *Burke* said, that those who did not understand the learned languages, might not know that vehemence and warmth were distinct things. He declared, that if by his conduct as manager, he had drawn honour and applause upon himself, that House, by whose instructions and in whose presence he had opened the charge, in which he had urged the allegations first complained of in the Petition, were participators in the honour and applause; if, on the other hand, he had incurred disgrace, the House were equally participators in it; since they had heard him make the accusation, without finding the least occasion to check or censure him; and, in fact, it had never appeared to them that he had gone at all into extraneous or improper matter, till the complaint had been brought to them by the agent of Mr. Hastings, the known libeller of that House, who ought to have been expelled long since. [A call of Order, order!].

Major *Scott* said, that he would not suffer the right hon. gentleman to call him a libeller; though the agent of Mr. Hastings, he sat in that House as independent a man as the right hon. gentleman, and therefore he did not wonder at the House feeling as one man, and calling to order, when so indecent an attack was made upon his character. He added, that no man should dare to throw such illiberal reflections upon him.

Mr. *Sumner* said, that although the hon. gentleman was the agent of Mr. Hastings, he was in every sense of the word, as respectable a character as the right hon. manager.

Mr. *Burke* producing the Morning Herald, which contained the list of charges* supposed to have been made to Major Scott, for the insertion of articles on the subject, said, that he called the hon. gentleman a libeller of the House upon good grounds, since the paper contained an account of money paid for the publication of libels, upon some of the most respectable members in that House for doing their duty.

The *Speaker* said it was extremely disorderly for any gentleman in debate to call a member of that House a libeller. He must beg, therefore, that the right hon. gentleman would not again give him occasion to interrupt him, as he certainly should hold it his duty to do, if he violated the regularity and order of the House a second time.

Mr. *Burke* said, he bowed to the authority of the Chair, and would therefore only repeat, that the House had heard him state the allegations now complained of a year ago, and that neither that House, nor the House of Lords, who formed the high tribunal before which he had urged the allegations, thought it necessary to make the smallest animadversion on his conduct. He had already declared, that if they thought him an improper person to be employed as a manager of the prosecution, and would take the task from off his shoulders, they would relieve him from a burthen of great weight. He repeated his declaration, that if he had acquired credit and honour, by his manner of opening the charges a year ago, that House were participators in that credit and honour, from having not only heard him make his opening, but never found fault with his manner of making it; and if, on the other hand, he had incurred disgrace,

* See Vol 26, p. 917.

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they were, for the same reason, equally participators in that disgrace.

Mr. *Sumner* said, that if he had come down to the House without any opinion upon the subject, the right hon. gentleman had furnished him with a strong reason for supporting the motion. If the fact were as the right hon. gentleman had stated, that the House were equally participators in the honour and in the disgrace incurred by the managers of the prosecution it was an unanswerable argument for the House watching over the conduct of their own managers, and restraining them within such bounds of discretion and propriety, as should render their incurring disgrace impossible.

Mr. *Marsham* thought it would be impossible for the managers to carry on the prosecution with effect, till the House had decided on the allegations stated in the petition. He reminded gentlemen of the awkward situation in which the petition being permitted to lie on the table placed the managers, and that they had a claim to great allowances, considering the toil and labour which they had sustained. He called therefore on the hon. major who introduced the petition, or upon the right hon. gentleman over the way, to name an early day for taking it into consideration.

Mr. *Pitt* said, that he was no more accountable for the petition than the hon. gentleman. He could not allow, that because the petition had been received, it naturally led either to a censure on the managers, or to a change of hands in those who had hitherto conducted the prosecution; and he flattered himself, that there could not be in any quarter a disposition to make it lead to consequences which did not naturally arise out of it, or which could have any tendency to weaken or impede the prosecution of a cause in which the honour and character of that House were deeply interested. An early day certainly ought to be appointed to take the petition into consideration, and on that day, the House would have to determine whether there was any part of the conduct of the managers which they ought to disclaim, and if there was, what were the steps which they ought to take for that purpose. He reminded the House of the distinction which he had in his former speech shortly pointed out between the allegations complained of as having been made a year ago, and the specific charge recently made of Mr. Hastings having been guilty, through the medium of sir Elijah Impey, of the murder of Nundcomar, It certainly was rather difficult to reconcile it to justice, that Mr. Hastings should have thought himself aggrieved and injured in respect to former charges, and not have complained of them within a reasonable time after the charge had been made; but the case was undoubtedly different with regard to the last specific charge which Mr. Hastings had complained of as soon as he possibly could.

Mr. *Fox* remarked, that upon the present occasion he felt himself so unusually circumstanced, that he could not avoid dissenting from the right hon. gentleman in one particular; and he was convinced that the majority of the House would agree with him. No procedure could tend more to disgrace the character and honour of the House, which the right hon. gentleman had stated to be deeply interested in the prosecution, than to weaken the hands of the managers, by doing any thing which should reflect on their conduct; and therefore, instead of wishing that the petition should be taken into consideration on an early day he thought its consideration ought to be delayed as long as possible. He said not this from any personal wish upon the subject; it was in that view indifferent to him whether it was entered upon that night or the next day, being fully persuaded, that whenever it was gone into, the mention of what had been termed extraneous matter would be found to have been indispensably necessary. He thought that no men ever received such hard treatment, as the managers had experienced; he could not help having his feelings on the occasion, and therefore it was that he had spoken warmly upon the subject. With regard to the prosecution, he was determined to stick by it, as long as he could do so with honour; and when he said with honour, he did not mean honour as a principle of pride or punctilio, but as long as there was any prospect of doing good with it, or rendering the prosecution effectual. The right hon. gentleman had said, that he hoped there was not a disposition any where to abandon the prosecution, or to impede it. He hoped so too; but if, upon the discussion of the petition, the managers were disclaimed, they were implied as censured, and they could not undertake to go on with the prosecution, with any prospect of success, because it would appear that they were acting without the

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confidence and support of the House. Mr. Fox enlarged upon the inconveniences which would result from entertaining a complaint made by a culprit against his accusers; declaring, that he conceived all which he had mentioned, to be the natural consequence of the prosecution being in the hands of those who were not generally speaking, the favourites of the House. Therefore, it would be better to change the managers at once, than to let them remain acting under disabilities and difficulties thrown in their way by the House itself: its character and its honour were interested in the prosecution, and it was of much greater consequence that the House should preserve its consistency, and either give its full confidence to the present managers, or choose others in whom it would repose confidence, than give a handle to its enemies to say that it acted in a prevaricating way, and indirectly endeavoured to cast inefficacy upon a prosecution which they themselves had instituted.

Mr. *Burke* said, that he should on Thursday next close the opening of the charge which he had begun, and proceed to adduce evidence; one of the first articles he should use to prove the bribery and peculation of Mr. Hastings, would be the evidence of Nundcomar. He wished therefore, to know whether the House chose that he should use that evidence, or abandon it altogether; because it would necessarily imply a criminal charge against Mr. Hastings. Mr. Burke enlarged on the several facts relative to this part of the charge, and read extracts from the defence given in at the bar of the House by Mr. Hastings, and which major Scott had afterwards deposed to be written by him and another gentleman. Mr. Burke discriminated between the general powers given to the managers by the House, and what the French term the *moyens* or means of carrying those powers into effect which, in all cases where general powers are given, are left to the discretion of the managers.

Mr. *Bouverie* objected to the petition being laid on the table. He admitted that the House had a right to interfere, and control the managers, who acted under their authority, but then he thought the interposition should only be made in such a case as that of the managers having failed to discharge their duty, or abandoned the prosecution they were commissioned to carry on. The tribunal who tried the culprit was, in his opinion, the culprit's only proper protector; and would in case his accusers went out of their road to accuse him, in justice, interpose and check them. He feared the interference of the House on the present occasion would materially affect the prosecution, and perhaps prove its ruin. If the petition were entered upon farther, he really believed the loss of the cause would be the unfortunate consequence, and therefore he would object to the petitions being suffered to lie on the table.

The question was put, and agreed to. Major Scott named Thursday as the day on which he wished the petition to be taken into consideration.

Mr. *Marsham* asked, whether it was right, on the very day that the managers were to act as accusers of Mr. Hastings before the House of Lords, that they should, as soon as they had finished in Westminster Hall, return to that House and be accused themselves?

The *Speaker* said, that no motion relative to the petition could take place after the question, "That the petition do lie on the table," was carried. It could only therefore be a notice.

Mr. *Pitt* thought that Thursday might be the day, and to obviate the hon. gentleman's objection, a message might be sent to the Lords, to desire them to put off the trial till Friday.

Mr. *Burke* remonstrated against his being sent to the House of Lords, to inform them that it was necessary to put off the trial of Mr. Hastings till Friday, in order that he might himself be tried first in the House of Commons, at the instance of major Scott and Mr. Hastings. He wished nothing to be done that might appear ludicrous in its effect, and cast an air of absurdity upon their proceedings. He stated to the House, that the very same means by which the managers meant to prove Mr. Hastings guilty of the charge, would be necessary for their own defence against the allegations of the petition. The matter would take up much time, and be found to be exceedingly complex. The papers alone necessary, in relation to the charge respecting Deby Sing, made five volumes in folio. He complained, that the putting the accusers on their trial, at the instance of the party accused, was, in effect, turning the whole prosecution into contempt and ridicule. For his own part, he would readily consent to any thing but

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being made ridiculous. He stated the hard treatment which the managers had experienced, in return for having given up their time, their comfort, their health, and, in short, every thing that was dear to them, but their honour and their characters. Such treatment might be sport to major Scott and Mr. Hastings, but it was death to him, and those who acted with him.

It was at length settled, that the petition should be taken into consideration on Thursday.

April 30. The House having been moved that the petition of Mr. Hastings might be read,

Mr. *Pitt* begged leave to remind the House, that at the time when they received the petition, it was generally understood that the subject of complaint would have been on that day discussed: it was not, however, convenient that such discussion should then take place, as the regularity of the proceedings of the House required certain forms to be observed, which would render it necessary to postpone its consideration until the day following. He unperstood it to be the invariable rule of that House, in all similar cases, that the subject matter of debate should be entered upon the Journals, and that it should likewise appear thereon that the right hon. member against whom the petition complained, was present in his place at the period of giving notice of the day on which the complaint was to be considered. He knew, in fact, that the right hon. gentleman had received as much notice as he desired, and therefore the motion which he should take the liberty of pressing upon the House, was calculated merely for the maintenance of the regularity of their proceedings. He therefore moved, "That a petition having been presented from Warren Hastings, esq. against a manager of the prosecution, and the name of Edmund Burke, esq. being mentioned in said petition, notice is given to that gentleman, now being in his place, that the House will, upon the morrow, take the matter of the said petition into consideration."

Mr. *Burke* rose. He said he agreed with the right hon. gentleman, with respect to the regularity of entering the subject on the Journals, and also of a formal notice, but it was a ceremony with which he, for his own part, was willing to dispense. He had no objection to the House taking any part or the whole of his conduct upon this trial, into consideration; he had every reason to confide in the honour of the House; to their decision, he would, with all due deference, submit. He begged leave to repeat what he had already said in the House, that if they wished to remove him from the management, he was ready and willing to retire; he should at all events wait for the determination of the House, nor should he even attend the discussion of the subject, being determined to suffer judgment to pass by default, if any judgment was to be given. He wished the House to have as little trouble upon this occasion as possible; to avoid any difficulty of proof, and to show he was willing to meet the charge, he would admit the words complained of, for he certainly did say that Mr. Hastings murdered Nundcomar, by the hands of sir Elijah Impey. Mr. Burke entered into his reasons at length, for having made that assertion. The House, he said, would have the goodness to recollect the peculiar circumstances which attended the case of the unfortunate Nundcomar. He was possessed of certain knowledge of the bribery and corruption of Mr. Hastings, and one of the charges now exhibited against that gentleman was to be supported by circumstantial evidence, in which the fate of Nundcomar was a material feature; it was therefore very natural to allude to it in the course of opening the charges. And here, he said, he could not help observing it was pretty singular, that Mr. Hastings should, at the moment he was about to be convicted of the foulest bribery, bring forward a charge against his accuser. This was done, no doubt, with a view to divert the attention of the House, and the public, from his own criminality, to a complaint against his accusers. But this was not all the singularity which attended the case of Mr. Hastings. Indeed, the House would perhaps act inconsiderately in taking this petition into consideration, for it was a notorious fact, that Mr. Hastings came to the bar of the House of Commons, and there gravely produced, signed by his own hand, a paper, which he called his defence: it was accepted by the House; but when the managers came to substantiate some of their charges from extracts out of this defence he then procured the hon. major not only to say, but also to swear, that this defence was not the defence of Mr. Hastings, for that many parts of it were drawn up by others, and that some parts Mr. Hastings had not even read!

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Major *Scott* spoke to order, and charged Mr. Burke with having taken great liberties in his speech, which he would not suffer to pass unexplained, and called upon him for an explanation. The hon. major was proceeding, when.

The *Speaker* put an end to the conversation by desiring the major to sit down.

Mr. *Burke* said, that the House ought to recollect, that if obstacles were suffered to be thrown in the way of the managers, it would ultimately tend to the disgrace of the House; if the managers were crippled, the prosecution would be defeated, and villany triumph over justice. He trusted implicitly to the honour of the House, being convinced, that they would protect the managers to the utmost, and enable them, for the purposes of justice, to proceed with vigour.

Mr. *M. A. Taylor* considered the petition not merely as against Mr. Burke, but as against the managers of the impeachment in general, and as a complaint against the whole House of Commons.

Mr. *Adam* considered it as very extraordinary in Mr. Hastings to imply a complaint against the managers in his petition, when by his own conduct he appeared to have nothing in view but delay. The petition was, in his opinion, absolutely destitute of any degree of merit or notice on the subject of which it complained. He noticed the circumstance of Mr. Hastings having delivered in at the bar of that House a defence in writing, which afterwards was denied to be his defence, on the oath of the hon. major. Let gentlemen remember, that Mr. Hastings had disavowed what he had delivered at the bar of that House; let them consider that they might be treated in a similar manner by a disavowal of the present petition. The inconvenience occasioned by the present worthless petition went particularly to the courts of law, which were deprived of a day's proceeding.

The motion was then put, and carried. It was next ordered, "That Mr. Hobart do carry up a message to the Lords to acquaint their Lordships, that, from circumstances which make it inconvenient to the Commons to proceed in the trial of Warren Hastings, esq., this day, the Commons desire the Lords to postpone the same to a future day.

May 1. On the order of the day being read for taking Mr. Hastings's petition into consideration,

Mr. *Frederick Montague* begged leave to inform the House that he had just received a letter from the right hon. manager, whose name was mentioned in the petition. He added, that any prefatory remarks from himself were needless, as the letter which he hoped for the permission of the House to read would speak much more forcibly than any language or expressions he could make use of. Mr. Montague then read the following letter from Mr. Burke:

"My Dear Sir; With the consent as you know, and the approbation of the Committee, I am resolved to persevere in the resolution I had formed and had declared to the House, that nothing should persuade me, upon any occasion, least of all upon the present occasion, to enter into a laboured, litigious, artificial, defence of my conduct. Such a mode of defence belongs to another sort of conduct, and to causes of a different description.

"As a faithful and ingenuous servant, I owe to the House a plain and simple explanation of any part of my behaviour which shall be called in question before them. I have given this explanation, and in doing so I have done every thing which my own honour and my duty to the House could possibly require at my hands. The rest belongs to the House. They, I have no doubt, will act in a manner fit for a wise body, attentive to its reputation. I must be supposed to know something of the duty of a prosecutor for the public; otherwise neither ought the House to have conferred that trust upon me, nor ought I to have accepted it. I have not been disapproved by the first abilities in the kingdom, appointed by the same authority, not only for my assistance, but for my direction and control. You, who have honoured me with a partial friendship, continued without interruption for twenty-four years, would not have failed in giving me that first and most decisive proof of friendship, to enlighten my ignorance and to rectify my mistakes. You have not done either; and I must act on the inference. It is no compliment to mention what is known to the world, how well qualified you are for that office, from your deep parliamentary knowledge and your perfect acquaintance with all the eminent examples of the ancient and modern world.

"The House having, upon an opinion of my diligence and fidelity, (for they could have no other motive) put a great

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trust into my hands, ought to give me an entire credit for the veracity of every fact I affirm or deny. But if they fail with regard to me, it is at least in my power to be true to myself. I will not commit myself in an unbecoming contention with the agents of a criminal, whom it is my duty to bring to justice. I am a member of a committee of secresy, and I will not violate my trust by turning myself into a defendant, and bringing forward, in my own exculpation, the evidence which I have prepared for his conviction. I will not let him know who the witnesses for the prosecution are, nor what they have to depose against him. Though I have no sort of doubt of the constancy and integrity of those witnesses, yet because they are men, and men to whom, from my situation, I owe protection, I ought not to expose them either to temptation or to danger. I will not hold them out to be importuned, or menaced, or discredited, or run down, or possibly to be ruined in their fortunes by the power and influence of this delinquent; except where the national service supersedes all other considerations. If I must suffer, I will suffer alone. No man shall fall a sacrifice to a feeble sensibility on my part, that at this time of day might make me impatient of those libels, which, by despising through so many years, I have at length obtained the honour of being joined in commission with this Committee, and of becoming an humble instrument in the hands of public justice.

"The only favour I have to supplicate from the House is, that their goodness will spare to the weakest of their members an unnecessary labour; by letting me know as speedily as possible, whether they wish to discharge me from my present office; if they do not, I solemnly promise them, that, with God's assistance, I will, as a member of their Committee, pursue their business to the end: that no momentary disfavour shall slacken my diligence in the great cause they have undertaken; that I will lay open, with the force of irresistible proof, this dark scene of bribery, peculation, and gross pecuniary corruption, which I have begun to unfold, and in the midst of which my course has been arrested.

"This poor Indian stratagem, of turning the accuser into a defendant, has been too often and too uniformly practised by Deby Sing, Mr. Hastings, and Gunga Govind Sing, and other banyans, black and white, to have any longer the slightest effect upon me, whom long service in Indian committees has made well acquainted with the politics of Calcutta. If the House will suffer me to go on, the moment is at hand when my defence, and, included in it, the defence of the House, will be made in the only way in which my trust permits me to make it, by proving juridically on this accusing criminal the facts and the guilt which we have charged upon him. As to the relevancy of the facts, the Committee of Impeachment must be the sole judge, until they are handed over to the court competent to give a final decision on their value. In that court the agent of Mr. Hastings will soon enough be called upon to give his own testimony with regard to the conduct of his principal: the agent shall not escape from the necessity of delivering it; nor will the principal escape from the testimony of his agent.

"I hope I have in no moment of this pursuit, (now by me continued, in one shape or other, for near eight years) shown the smallest symptom of collusion or prevarication. The last point in which I could wish to show it is in this charge, concerning pecuniary corruption.—A corruption so great and so spreading, that the most unspotted characters will be justified in taking measures for guarding themselves against suspicion. Neither hope, nor fear, nor anger, nor weakness, shall move me from this trust,—Nothing but an act of the House, formally taking away my commission, or totally cutting off the means of performing it. I trust we are all of us animated by the same sentiment.

"This perseverance in us may be called obstinacy inspired by malice. Not one of us, however, has a cause of malice. What knowledge have we of sir Elijah Impey, with whom, you know, we began; or of Mr. Hastings, whom we afterwards found in our way? Party views cannot be our motive. Is it not notorious, that if we thought it consistent with our duty, we might have, at least, an equal share of the Indian interest, which now is almost to a man against us.

I am sure, I reverence the House as a member of parliament and an Englishman ought to do; and shall submit to its decision with due humility. I have given this apology for abandoning a formal defence, in writing to you, though it contains in effect not much more than I have

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delivered in my place. But this mode is less liable to misrepresentation, and a trifle more permanent. It will remain with you either for my future acquittal or condemnation, as I shall behave. I am, with sincere affection and respect, my dear sir, your faithful friend, and humble servant,

"*Gerrard Street,* EDMUND BURKE."

"*May* 1, 1789."

When Mr. Montagu had distinctly read the letter, he said, that he had been honoured with Mr Burke's friendship these twenty-four years, that he would not mention the brilliancy of his imagination, the strength and depth of his understanding, or the energy of his eloquence, which were confessed by all. In short it might be said of his right hon. friend that he possessed "Omnium divinarum humanarumque rerum scientia." But what he most admired in his right hon. friend were the qualities of his heart, his consummate integrity, and his unbounded benevolence.

Major *Scott*:—I rise, Sir, to state the nature of the proofs that I mean to adduce in support of the petition; but before I proceed, I must take some notice of the letter which the right hon. gentleman has just read. Sorry, indeed, I am, that the right hon. manager has chosen to be absent on this day; but the House will not suspect me of a wish to say any thing in his absence which I am not ready to say before him. The right hon. manager, in the letter just read, talks of material information which he means to collect from evidence he is to draw from me in future. I desire to inform the House, that I have been twice examined already; that I gave a clear and decisive answer to every question put to me, and I do assure them, that whenever I may be called upon hereafter, the managers will find from me the same unequivocal evidence. There is no one circumstance relative to Mr. Hastings, or to myself, that I have the slightest wish to conceal. Gentlemen opposite to me may say, and it may be true, that I have acted very unwisely and absurdly on various occasions, but they will not accuse me of having acted dishonourably; therefore, I receive, with perfect indifference, all the insinuations in the letter which has just been read. Sir, the petition complains, in the first place, of the conduct of the right hon. manager in the story of the Three Seals, and the way he brought it home to Mr. Hastings was this: that, after the departure of lord Clive, another set of men succeeded him, who determined upon another revolution. That to this plan Mr. Hastings, then resident at the court of Meer Jaffier, was a party; that to accomplish it, it was necessary to dispatch the Shazada, and the eldest son of the nabob, Meer Jaffier. Houses were said to be strong that had sons grown up to defend them, and he described the manager, "Cossim Ally Cawn, the ferocious tyrant whom Mr. Hastings had set up." These events happened twenty-eight years ago. They were the subject of parliamentary investigation in 1772 and 1773, and when the reports of the hon. general (Burgoyne) were placed upon the table of this House, and fresh in the mind of every man, much difference of opinion subsisted as to the merits of different gentlemen, but the noble lord, whom I now see in his place, then the minister of this country, when he formed an arrangement for the government of India, actually grounded upon these reports, pronounced a very fine eulogium upon Mr. Hastings, and the legislature conferred upon him the office of governor-general of Bengal. This being the actual state of the fact, was it fair or just to implicate him in transactions, in which, whether they were wise or unwise, he had no concern? It was doing him a real injury, and he has a right to complain of it.—The next complaint is for the misrepresentation in the affair of Deby Sing; a misrepresentation that never will, nor never can be forgotten. The confusion and distress which it occasioned at the time; the noise it made, not only in every part of Great Britain, but in every corner of Europe, is well known. Yet the manager knew at the time, that Mr. Hastings could not, under any possible construction, be implicated in the crimes of Deby Sing, if they were true to the extent that he stated them. But there is another, and a very serious consideration for this House—the manager professed to feel the dignity of the great body that he represented: he disclaimed the privilege of an advocate; he affirmed, that in his prefatory matter he would not make a single assertion that he was not ready to prove, and that he held himself as accountable for the preliminary observations, as for the charges themselves. After so solemn a pledge, which carried with it the whole weight of the Commons of Great Britain, who could refuse credit to the manager? Could the world suppose, that it would hereafter be established by proof, that the manager at the time he spoke,

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knew that if all the facts he stated were true, Mr. Hastings could not be affected by them. Could the world suppose it would be established by proof, that in the government of sir John Macpherson, this matter was most solemnly investigated by three gentlemen upon oath; and that the most horrid of those cruelties which were stated by the manager, were actually never committed by any human being? This is a point in which the honour of the British nation is concerned. In the present moment I will not quote Mr. Hastings as any authority; but I have heard gentlemen of great weight in this House declare, that Bengal is the best governed country in India. Sir John Macpherson has said, that the natives of Bengal are the happiest and best protected subjects in India. The fact is undoubtedly true; but till the business of Deby Sing, who is a Bengal renter, is explained, doubts of the truth may remain. The injury to Mr. Hastings was serious indeed. Is it a slight matter to be represented as a monster of cruelty throughout Europe? to have the scandal perpetuated by a print of the court in Westminster-hall, in which the scene of distress on that memorable day was described? What power, but this House, can give him satisfaction? His counsel did endeavour to clear it up in Westminster-hall, and though I am very ready to allow, that when Mr. Fox interrupted Mr. Law, it was not an objection to the matter but to the manner, and the word he used, yet it had the complete effect of preventing his proceeding, since the court took it up and stopped him. Mr. Hastings, therefore, now brings it before this House.—The last business he mentions is, that of Nundcomar, on which the right hon. manager who is absent appears to rest so much, although it was a story perfectly known in this country almost fourteen years ago. Nundcomar was employed by Mr. Hastings, at the special order of the Directors, to detect certain enormities attributed to Mahomed Reza Cawn, who was supposed in 1772, to have accumulated six or seven millions sterling, and to have added to the miseries of the famine in 1770, by his monopolies and oppressions. Nundcomar, who had laid the information against Mahomed Reza Cawn, was supposed to be the best person for detecting his crimes. The information which had been transmitted to Mr. Gregory, was by him laid before the secret committee of the direction, who sent a copy of it to Mr. Hastings, then recently appointed to the government at Bengal. Mr. Hastings, as he assured the Directors, sacrificed his own feelings to his sense of duty to them in employing him, and, after a very long trial, Mahomed Reza Cawn was acquitted, having declared then, and since repeatedly, that to the justice and impartiality of Mr. Hastings he was indebted for his life and his honour. Mr. Hastings informed the Directors, that by the acquittal of Mahomed Reza Cawn, he had acquired the enmity of Nundcomar, but this was one year before that man gave in the information against him. When the new council came out, in October 1774, a violent opposition took place, —Nundcomar gave in that information against Mr. Hastings to which the manager alluded. He had done precisely the same thing when lord Clive arrived in 1765; but his information on inquiry, was found to be base and false, and so stands recorded in the minutes of the hon. general's committee. Mr. Hastings refused to appear at the Board when such a man was examined, not conceiving it suitable to his station as governor-general; but he said, the majority might form themselves into a committee, and examine into the information: they set as a board, and transmitted all their proceedings to the Court of Directors. Mr. Hastings wrote to them at the same time, that he would enter into a full explanation of all his conduct to them, in any manner they should prescribe. The Directors instead of accepting this offer, laid all the papers before council. No prosecution followed, nor did they even ask Mr. Hastings for an explanation. He had at that time the support of the great men in opposition, and the noble lord was against him. These events happened in 1776. In the winter of 1778, it became necessary for the noble lord to fix a new government for India, the Regulating Act expiring in 1779. The noble lord himself, with the knowledge and consent of the Company, proposed to parliament, that this very Mr. Hastings, against whom these heavy accusations were made, should be re-appointed governor-general. It was agreed to without a dissenting voice. The next year he again proposed, and the legislature consented to appoint him, and the following year he was re-appointed by the same high authority for ten years. What opinion could Mr. Hastings, or the world, entertain but this—that neither the noble lord nor the Directors believed one syllable

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of the information of Nundcomar; that they looked upon the whole to be a base and unfounded calumny, and therefore never called upon Mr. Hastings to answer it? Yet this is the mass of evidence which the manager has been talking of for two days, and which he is so anxious to produce. What have been the proceedings since? Mr. Hastings returns to England; not a question is asked him as to Nundcomar's information; yet, as he never replies to what was never put to him, the manager draws a strong presumption of his guilt. The House next takes up the business of Nundcomar, and has passed its decision upon it; yet after that decision the manager affirms "that Mr. Hastings murdered Nundcomar through the hands of sir Elijah Impey." These, Mr. Speaker, are the different points which I shall wish to substantiate by evidence. After having done that, I shall not presume to offer a motion to you, confident that the House will consult its own honour, and do Mr. Hastings justice in the steps they mean to take.

Mr. *Bouverie* moved, "that the House do now adjourn."

Mr. *Sumner* said, he meant to have called evidence to prove the allegations of the petition.

The Marquis of *Graham* said, it was his intention to have moved that the proof be confined to the last allegation, that respecting Nundcomar; the other allegations which related to what had passed last year, he thought, did not come fairly within the cognizance of the House.

Sir *Joseph Mawbey* thought that the best means of getting rid of the business was by adjourning. The proper place to have noticed any irregularity, was in Westminster-hall, at the time when the irregularity had taken place. It was common, in trials, for the parties themselves to rise and appeal to the court, if any thing extraneous was introduced. He was, therefore, astonished that counsel, who were so able as those employed by Mr. Hastings, should not have interfered, if there had been any real occasion. Sir Joseph declared he was afraid that any precedent of the kind should be established, since it might, some time or other, weaken the dictatorial power of that House. He was one of those who had voted articles against Mr. Hastings, who was charged with having been guilty of oppression, peculation, and corruption; those articles would stand recorded on the Journals, and therefore, in his mind, the best way to avoid the making a dangerous precedent, would be to adjourn.

Mr. *Ford* begged leave to remind the hon. baronet, who had asserted, that in every court of justice in the kingdom, the proper application, whenever counsel discover what appears irrelevant in the charge against their client, is an appeal to the court, or else the court of itself checks the counsel for going beyond the regular rule of proceeding, that although his position was right, as far as it extended to the practice of common courts of justice, yet it lost all its validity when applied to the House of Lords. They had much greater powers than any other court, and he should conceive, that if they had been appealed to, and had reprimanded the managers, the latter would have come down to that House and complained that the Lords had presumed to dictate the mode of proceeding, and had infringed the privileges of the Commons, by reprimanding the members for conducting a prosecution instituted by the House itself. Upon the cry of No, no! Mr. Ford declared, that he thought it would have been the duty of the managers so to have acted. Another reason why the counsel had not complained against the managers was, they naturally were over-awed by their authority. He believed it was fresh in the recollection of every gentleman who heard him, that the counsel did on one occasion object to a particular mode of proceeding, in the right hon. gentleman then in his eye, and that right hon. gentleman told them, that they spoke on the behalf of the House of Commons, and were clothed with robes of majesty, and were not to be addressed in that manner.

Mr. *Fox* said, he was much surprised, after having twice explained that he had found fault with the manner in which he had been interrupted, and not the matter of the objection, to have occasion to rise again to repeat his explanation. He was sure the good-sense of the hon. gentleman who spoke last must see the difference. It was not because the counsel for Mr. Hastings interrupted him, that he made any objection; he thought the interruption a very proper one; but when the counsel accused him of calumny, he, in his turn interrupted him. With regard to its being the duty of the managers, if checked or reprimanded by the

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Lords, to come to that House and accuse the Lords of having infringed their privileges, he knew of no such duty. He carried, and ever had through life, carried, his ideas of the privileges of the House of Commons as far as most members, but the House of Lords were the undoubted masters of their own court, and governed themselves by known and established principles peculiar to themselves. The managers on behalf of the Commons, were in his mind as much bound to submit to the will of the Lords, when signified to them by the Lord Chancellor, as counsel or advocates were bound to obey the will of any court of justice, when they heard it from the bench. The fact was, that it had more than once happened in the course of the trial, that the Lords had checked the managers, and prescribed rules of conduct to them. He concluded with repeating, that he had not objected to the interruption of him, as a matter wrong in itself, but merely to the words which the counsel had used, declaring that a manager on the part of the Commons speaking by their instruction and authority, must not be termed a calumniator, and in so saying he had been supported by the first authority in the court, the Lord Chancellor having told the counsel the same.

Mr. *Samuel Smith* declared, he thought that all the facts complained of in the petition were ill-founded accusations, and though he gave credit to the assertions of Mr. Montagu, that the words were not used by the hon. manager in Westminster-hall, yet it would go but a little way towards conviction, if it should turn out that the short-hand writer states that there they were used. In that case, it was necessary to have it understood that the short-hand writer's notes were disavowed, and, if so, he should be satisfied; but were he Mr. Hastings, he should not be satisfied. Mr. Smith lamented the absence of Mr. Burke, as they might, had he been present, have heard from him a declaration, whether the words were used in Westminster-hall or not; a considerable part of what he had said in his opening, he considered as merely declamation. The great length of the manager's speeches, he considered as one proof that the charges were ill-founded. Had there been strong criminal facts to urge against Mr. Hastings, they must have been capable of being stated shortly, which would have saved a great deal of time.

Mr. *Fox* said, he did not know what the short-hand writer had taken down; but he was sure, from his own recollection, that if he had taken the speech down accurately, his notes would not be found to contain what the Petition stated, because the allegations of the Petition were all false, that relative to Nundcomar excepted, and even that was neither fairly nor correctly stated.

Mr. *Milford* said, the allegations of the Petition deserved the greatest attention, if they turned out to be true; if they were not true, the Petition, and the person who presented it, merited the severest censure. The Articles were full of the foulest criminal charges, and Mr. Hastings was to be considered as a man who stood charged of those crimes. If he was guilty, he wished him to fall by the oppression of those crimes, and not by the weight of his accusers. Notwithstanding his profession, he had not lately been much acquainted with the proceedings of criminal courts, but prosecutions of the kind, he well knew, should be conducted so as to do honour to the House; and there were two things which ought to be strictly adhered to by the advocates who conducted them, viz. never to bring forward a fact that was matter of calumny to the accused, or to enflame the passions of those who were to decide as judges. The House would recollect, that a committee of the whole House, sometimes a larger and sometimes a smaller body, attended every day of the trial, to lend their countenance and support to the managers. It behoved the latter, therefore, to be extremely delicate and guarded in what they stated. If they asserted a calumny, the Lords could not act with the same freedom that an ordinary court of justice could. Every advocate at a bar who dared to say what may affect the criminal's character, was amenable to the laws of his country. The Lords could only stop a manager if he went into extraneous matter; they could not commit him, nor could he be punished. Mr. Hastings, therefore, very wisely, instead of appealing to the justice of the Lords, had made application to the candour of the House of Commons, which alone could afford him redress. If that House, therefore, suffered any thing to be done, that was contrary to that delicacy which ought to be preserved, it degraded itself and acted unjustly. It was extremely possible that the right hon. manager thought what he

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had said was relevant; but, from his own explanation, it did not satisfy him; on the contrary, it convinced him that the original evidence was not cognizable in a court of justice. Minutes of council, they were told, would be read as evidence. They certainly were not evidence, nor could they be admitted as such. The question now was, not what the House could do, but whether the House should take the Petition into consideration at all. It was, in his opinion, the duty of the House to examine whether the allegations were founded, and if so, to ascertain afterwards what was to be done to afford the petitioner adequate redress. If they should turn out to be ill founded, to consider what censure ought to be passed on the Petition, and the party who presented it.

Mr. *Fox* conceived that they ought not only to use as much delicacy in the present, as in any other prosecution, but much more; that not one word should be uttered tending to inflame the passions, if the hon. gentleman meant to inflame them against reason. He admitted the justice of the remark in cases of life and death, but said it was not so in misdemeanors; in the agitation of misdemeanors it would chiefly consist of much aggravation on the one side, and much extenuation on the other. If he accused a man of murder, he should avoid every thing to inflame the passions; it was a trial of a fact; the verdict, if proof be given of the fact, was guilty, and death the known punishment. In conducting a trial for a misdemeanor by impeachment the managers could not prosecute it like men, without adducing all in their power to inflame the passions and prove the enormity of the guilt. He thought it his duty to state that enormity in the strongest manner, but he should abuse the trust reposed in him by the House of Commons, if he said any thing which he could not and did not mean to prove, and which he did not, in his conscience, believe to be true. The truth of the allegations was not now the question, but their relevancy. He thought it a question in which the House should place an extensive confidence in the managers. It was indeed, that point in which they ought to repose the utmost confidence in them, as they were to judge what was relevant, and what was not; and this was what made their situation difficult; but "difficult" was a poor word to express it. It was a situation of uncommon difficulty. The House had appointed them managers; they had said, "You must adduce proofs, you must collect evidence, you must arrange and bring it forward; we, who will not take the pains to do it ourselves, instruct and authorize you to do it; but if we think you exceed your powers, if we see you introduce matter apparently irrelevant, before we have seen how you mean to apply it, and can judge whether it is material to the cause or not, we will disclaim it, and we will censure you." If any private man was to put another under such disabilities, there was no one who could be employed by any client whatever. They were bound not to use impossibilities, and yet impossibilities were expected at their hands. The hon. gentleman had cut them up by the roots. He had conjectured what their evidence was, and then said it would not be admissible. Let the hon. gentleman have the presumptive confidence in the House of Lords, to give them credit so far as to suppose they would take care that nothing was received as evidence but what was admissible. Let the evidence go unprejudiced before the House, and not be prejudged in that House, before it was offered in Westminster-hall. Were they debating on the petition only? No, they were discussing the evidence of the House of Lords. Mr. Fox said, he saw clearly it must ultimately come to this short question, "Were the managers, or were they not, deserving of the confidence of that House?" If not, let the House appoint others. Those who uttered calumnies of Mr. Hastings abused their trust; and what did those do, who were defaming the Commons of Great Britain by making them parties to calumnies which they disclaimed? The managers were in a strange situation indeed! The trial of Mr. Hastings was necessary to be undertaken by those who were acquainted with the subject; the managers had undertaken it, and when they were tracing him through all his iniquities, they were to be charged with having done so merely for the purpose of calumny, for the purpose of loading him unnecessarily with new accusations! He warned them that they were establishing a principle that would tend to render all trials by impeachment ineffectual, if, whenever the criminal found himself pinched, he might cause a division among his accusers, by making them accuse themselves. He had always main-

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tained, that if the managers abused their trust, they ought to be severely censured; but was it the business of the House to be told by the prisoner that they had done so? Should they be taught by the prisoner, whether those who had undertaken the prosecution were competent to the task or not? Was it likely that the Commons would be neglectful of their own honour? They attended, as the hon. gentleman had truly said, daily in different numbers in Westminster-hall; it was their duty to observe and censure, if they saw occasion, but not to proceed on the charge of the accused. The whole of the proceedings was contrary to common sense and to precedent, and ruinous to public justice. The petition stated many facts, but the only one relied on was that relative to Nundcomar. Was the charge new? On the contrary, had not his right hon. friend stated it to the whole House with an effect never to be forgotten, last year, when the decision of the House not to impeach sir Elijah Impey was recent? And were they now to be told that the House of Commons were of a contrary opinion, and that they had acquitted sir Elijah Impey? He denied the fact. They had, by as small a majority as ever was known on a great question, resolved not, at that time, to impeach the chief justice, but was that an acquittal? So far from it, sir Elijah was as liable to be impeached as ever, and the charge might be renewed the next day. If he were asked his private opinion as to the death of Nundcomar, he should answer that he thought it a murder, and what he would say in his private capacity, he would say in that House, or in Westminster-hall. It was his opinion, that Nundcomar was put to death for the basest of purposes. Mr. Hastings in his petition, had said, bring forward the facts as charges. He said so, not because he wished to have them brought forward, but because he dreaded them. There never was a prisoner who called upon his accusers to bring forward fresh charges against him. The only proper answer to give him was "We will bring them forward when we think fit." Before the charges were summed up, he had called for more, as if he, rather than the manager, was the proper judge when it was right to bring them forward. What, he asked, was the real injury done to Mr. Hastings, when they had declared they would prove what they had asserted? If it were not proved, his conduct was clear, and he would wait for proof, and if they did not bring proofs, Mr. Hastings would contend that they were irrelevant charges. If they failed, he might then say, 'Now it has come to the proof; and it is not proved.' He complained of the managers before he could shew any cause of complaint whatever; he felt himself pinched in that quarter to which the charge last opened had reference, and he resorted to the stratagem of accusing his accusers for the purpose of diverting the storm. Did he wait till they brought forward proofs? No he presupposed a victory before an engagement. Was it not a well known rule, that the failure of an argument was an advantage to him against whom it was used? It was impossible to suppose, that in such a prosecution the managers could proceed without the protection of the House. If a complaint against the managers could be brought properly, it must come from a member of that House, who having been present at the time the words were spoken, had taken them down, and could authenticate them. It would then come in a manner worthy to be heard and to be acted upon: but when it came from Mr. Hastings himself, it was justly an object of suspicion. His right hon. friend did not stand alone in respect to this complaint; there was not one of the managers, had he stood in the situation that the right hon. leader had done, who would not have thought it necessary to have made use of the same allegations. There was no difference of opinion, therefore, among those who had studied the cause. The presumptions, therefore, were all in their favour, and the proofs against Mr. Hastings. As long as they had an idea that there was a possibility of answering the end of public justice, they would abide by the prosecution. He therefore said, it was reasonable that they should be distinguished by that House favouring the cause of public justice. They had been for many years fighting against every political advantage, at a certainty making enemies every day, and risking the enmity of others. They had undertaken a difficult and dangerous task, and let it not be said, that they had brought it on themselves, because they had supplicated others of greater weight and authority, who professed to be friends to the prosecution, to assist them in the conduct of it, but they refused. He hoped the House would not put them into so awk-

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ward a dilemma, and that those who would not assist, would not obstruct. Let it be remembered, that there never was a prosecution by impeachment before, in which the crown lawyers were not the chief managers. There had always been the attorney and solicitor-general, the master of the rolls, or some of the other crown lawyers whom he saw opposite to him. If, therefore, these gentlemen would not assist, let them not impede; let them give fair play to their ill-sorted arguments, and if they had not time to aid, let them not find time to slur their proceedings, and to degrade their characters. It had been often said, when an opposition found fault with the measures of government, that it was not the measures, but the men they objected to, and the reason was, they wished to be in place themselves. He wished the same saying could be applied in the present instance, and that the managers could observe, "You do not wish to find fault with the measures of the prosecutors, but to conduct the prosecution, and be the managers yourselves." This standing joke against opposition he had always thought a miserable argument, and that the reverse of it was more likely to be the fact. On the present occasion, he wished the House would show them how they could act better as managers; till then, they ought to agree to give them their confidence and support, or put an end to the prosecution at once. If the motion of adjournment should be rejected, he hoped that they would proceed to discuss the allegations, and call evidence to prove them, when he had no doubt but they would turn out to have been falsely stated.—Before he sat down, he must once more put the House in mind that Mr. Hastings had dared to come to that bar, read a defence, and after having taken credit to himself for the shortness of time in which he had been obliged to prepare it, had since deposed that the defence was not his, that he never wrote one word of it, that it was the production of his agent, and that he utterly disclaimed the whole. It was already sufficiently established that Mr. Hastings and his agent showed a thorough contempt for all sense of adhering to truth. He declared that he would vote for the adjournment, because he should hope that some time hence the whole of the proceedings would be reprobated and expunged. He passed an encomium on the conduct of Mr. Burke, and said he had acted with great propriety throughout the business. He had given the House as much satisfaction as was necessary, and feeling the indignity of being called upon as a defendant, by the culprit he had been directed by that House to prosecute, he had refused to do more. He admired his right hon. friend's conduct that day, in being absent, not less than his general conduct. It was manly, consistent, and dignified.

Mr. *Jekyll* said, that the arguments of the right hon. gentleman were replete with fallacy and false reasoning. If ever there was an instance of a manager's abusing his trust, and exceeding his instructions, it was in quitting the specific article he was bound to support, and introducing new matter of criminal allegation. Had the right hon. gentleman not introduced a new charge, there could not have been such a petition as the present. Managers ought to conduct themselves with as much caution as an advocate did in an ordinary court of law; for what were they, in fact, but advocates appointed to manage and conduct a prosecution carried on at the suit of that House? These, he thanked Heaven, were not days in which advocates might insult a prisoner, and hold any language to him with impunity. The conduct of advocates and courts had been pure and orderly, from the times in which lord Strafford and lord Macclesfield had been tried, down to the present hour. On the trial of sir Walter Raleigh, indeed, the court had acted so shamefully as to refuse protection to the prisoner, and when he appealed to them, on being called toad and viper of hell, the lord chief justice Popham had said: "Mr. Attorney speaketh out of zeal for his highness the king, and you sir Walter, for your own life—be valiant on both sides." As one of the fallacies which Mr. Jekyll imputed to Mr. Fox, he stated the declaration, that a man in prosecuting one crime, might charge him with others, observing, that in the present case, a case of misdemeanor merely, the right. hon. manager who was absent had charged Mr. Hastings with the heinous crime of murder, in which all the accessaries were principals. Mr. Hastings had acted becomingly in his situation; he had presented a petition, drawn up with humility and modesty; and the dignity and honour of the House required that they should examine evidence of the truth of the whole petition.

The House divided on the question of adjournment:

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Tellers.

YEAS	Sir Gilbert Elliot - - Mr. M. A. Taylor - -	97
NOES	Mr. Neville - - - - Mr. Sumner - - - -	157

So it passed in the negative. It was next moved, "That Mr. Gurney, one of the short-hand writers of the notes taken at the trial of Warren Hastings, esq. in Westminster Hall be now called in."

Sir *James Johnstone* called upon the Chair, to know if there were any precedent for the proceeding proposed.

The *Speaker* said, he did not conceive it fell within the scope of his duty to state, whether there were any precedents or not.

Sir *James Johnstone*. Then I am to understand there are not any.

Mr. *Fox* said, he wished it was in his power to satisfy the hon. baronet. He thought the hon. baronet's question extremely pertinent; for if there were no precedents to afford a rule to go by, they ought to proceed with very great caution in the establishment of a precedent that might endanger their privileges. He owned he did not admire the examination of the short-hand writer: it was, he believed, the first instance of such a witness being examined to prove words spoken by a member of that House in his senatorial capacity. The common evidence was that of a member who took down the words at the time, and could state in his place, that he was present when Mr. Burke said so and so. If it once was admitted, that words uttered by a member were to be selected for censure on the complaint of a person who was not a member, and that a third person, who was also not a member, nor connected with that House, was to give evidence of those words, it was contrary to all the privileges of the House. In forming a precedent the House ought to be particularly careful, since by a rash, hasty, and inconsiderate proceeding, they might lay the ground of much future irregularity.

The Marquis of *Graham* said, he should prefer the answering the ends of natural justice to all precedent whatever; if no person but a member of parliament could give evidence of the words complained of, that House could not afford redress in a case of grievous injustice. Most undoubtedly, the words spoken in that House could only be proved by a member who took down the words at the time, but the words complained of were words uttered in an open court of justice, where any person might have heard them, and where the distinction of the right hon. gentleman, and the necessity for a member's taking them down, in his mind, did not apply. In fact, any indifferent individual who heard them, might be as good a witness of their having been spoken as a member of that House. With regard to precedents the marquis said he believed there were precedents.

Mr. *Fox* said, the noble marquis had expressed his belief that there were precedents. If so, surely they ought to be produced and examined.

Sir *James Johnstone* adduced an instance on the trial of lord Lovat, where Mr. Murray attempted to accuse three other persons, members of that House, of high treason, viz. a Welch baronet, an Irish lord, and an Highland chieftain (Macleod), when lord Talbot stopped him, and told him, he was not to accuse them, but to confine his argument and proofs to lord Lovat. Mr. Murray's answer was, that he was instructed to charge the three members also. Sir James explained, that the highland chieftain, Macleod, had made his peace, and had in time joined the king's army with all his men. Sir James said, by all means let the managers go on and do their duty, without, in an unprecedented manner, proceeding to impede and check their career.

Mr. *Adam* said, the form of their proceedings was of so much importance to the constitution of this country, and the proceeding they were hastily about to adopt struck so directly at the foundation of the inquisitorial powers of that House, that he conjured them to be cautious, before they rashly took a single step that might endanger the very existence of their inquisitorial capacity. The noble marquis had stated, that the court of Westminster-hall was an open court, and not that House: it certainly was a court of justice, but it was extremely different, in a variety of respects, from ordinary courts of justice. What he would suggest was, the propriety of withdrawing the motion, and moving for a committee to examine precedents.

Mr. *Samuel Smith* said, that Mr. Hastings, though not a member of that House, was not the less entitled to its protection. If, therefore, it should be thought improper to call Mr. Hastings to the bar, and tell him to produce his proofs of the allegations of his petition, the best evidence

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would be that of the short-hand writer. It mattered not, in his mind, whether there were precedents or not. If there were not any, a precedent must be made, and justice done to the petitioner. Mr. Hastings had he been a member, might have taken down the words, and complained to the House; not being a member, he had made the application which was becoming and proper.

Sir *Grey Cooper* wished, as an old member of parliament, to intreat the House to pause a moment, before they called in the short-hand writer; if they proceeded otherwise they would put in peril the exercise of the privilege of impeachment. He reminded the House of the liberal manner in which it was usual to proceed, when a member was called to order while on his legs, and his words moved to be taken down; an opportunity was in such cases always afforded him to recollect himself, and explain his words, which was generally done to the satisfaction of the House. He instanced the case of the late alderman Beckford, who had been called to order by Mr. Grenville. With regard to precedent, he stated that of the conference with the Lords, when the impeachment of the marquis of Halifax and lord Somers was in agitation. Lord Haversham used words at the conference that gave offence to the committee from the Commons, and though he persisted and desired to be heard out, the Commons broke up the conference, and came back to their House, and complained of the words of lord Haversham, who explained his meaning. He advised the appointment of a committee to examine precedents, as a precaution highly necessary, observing, that if it were not taken, the House might one day or other repent it.

Mr. *Rolle* said, the right hon. manager had every opportunity afforded him of explaining his words, but so far from doing so, he had admitted that he spoke them, and had justified them.

Sir *Grey Cooper* said, the right hon. gentleman had no opportunity at the moment.

Colonel *Phipps* denied, that the precedent cited by the hon. baronet was at all in point: that was a parliamentary proceeding altogether, this a judicial one.

Mr. *Fox* said, he had recollected another difficulty, if the present were got over — Mr. Gurney was the short-hand writer for the managers, and Mr. Hastings had another short-hand writer. Mr. Hastings and the House were the parties interested. Was there no short-hand writer who took down the speeches of the managers &c. for the Lords? If there was a short-hand writer to the court, who could have no interest either one way or the other, and must necessarily be most impartial, he was the properest person to refer to as a witness.

Sir *William Young* said, the immutable principles of justice ought to be abided by, and the House should be governed by higher and better motives than had distinguished the course of the debate. That House was the inquisitorial power, and the ground he rose on was to preserve the dignity of the House of Commons, and not to look to precedents that might mislead them.

Mr. *Adam* said, that after the disposition lately shown by the right hon. gentleman, to walk precisely by precedent, the other side, he should suppose, could have no objection to their examining, whether there were any precedents or not, and therefore he would move the previous question.

Mr. *Pitt* said, the question appeared to him to be an object of importance only in point of time. That as the words respecting Nundcomar, which was the only allegation of the petition that he thought entitled to the consideration of the House, those words had been confessed to have been spoken by the right hon. gentleman himself, and therefore they were relieved from any anxiety respecting the truth of the allegation; there only remained for them to have, for the sake of the regularity of their proceedings, some sort of parliamentary document before them to ground those proceedings upon, and in the nature of things it was impossible but that they should be able to come at some proof of the fact alleged and complained of. It appeared to him, that they run no risk in referring to the short-hand writer, who having no interest in the matter, must be considered as an impartial witness, and capable of giving the testimony most to be relied on. The only point that was clear to him was, that an allegation had been made by one of the managers of the prosecution, which did not appear to grow out of the charge, and that the allegation in question consisted in words affording a charge highly injurious to Mr. Hastings, and wholly unauthorized by that House. That question he should be ready to meet, and to maintain it, whenever the proper

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time for discussing it should come. But so far was he from agreeing that the present proceedings were rashly and inconsiderately taken up, or that they tended in any degree to endanger the privileges of the House of Commons, that he conceived they were necessary towards preserving those privileges, which ought not to be suffered to be abused, by carrying them to an unreasonable and unjustifiable extent. With regard to the argument respecting precedents, he, for one, was always glad to go by precedent, when there were precedents either immediately in point, or that bore a strong analogy to the case, whatever it might be, that should at the time be under consideration; but he could never agree, that where there was no precedent, and the case was of sufficient importance to be entitled to the attention of the House, the House ought not to point out the mode of treating it.

Mr. *Fox* said, that he felt no hesitation in positively asserting, that his right hon. friend had ever admitted that he had spoken the words respecting Nundcomar as they were set forth in the petition; and it was extremely material to mark the difference, because there might be members of that House who might think his right hon. friend highly blameable if he had said what the Petition stated, and not blameable if he only said what he declared he had said. Whether his right hon. friend had spoken the words as he conceived him to have spoken them, or as the Petition set forth, in either case they afforded ground for the declaration of the right hon. gentleman's argument, but that was the right hon. gentleman's private opinion only. The right hon. gentleman had declared he should be ready to meet the question, when it came before him; he declared on his part, that he should be ready to meet it likewise, and to maintain, that it might be necessary, in the prosecution of a small crime, to prove it by alleging a greater; and that point, when proper, he would contest with the right hon. gentleman, and he was sure he should have all the law on his side. With regard to Mr. Hastings complaining of the words, as words conveying a calumny, he would ever labour under some calumny, if the trial proceeded. With respect to the delay that appointing a committee to search for precedents would occasion, he was sorry for it; but let it not be denied, that this was a matter of great importance, and the sooner it was gone through the better. All the delay that had happened he lamented; but it had arisen from various extraordinary causes. The great events of this year had almost swept away every thing else from memory; they, and they only had, as it were, occupied the imagination of every man. He, for one, thought Mr. Hastings's trial a business on which the character of this country depended. The eyes of all Europe were upon them; and it was a matter which depended not on a division one day, or on a majority another; but on the consistency, steadiness, and honour of the Commons of England.

The *Attorney General* said, that he did not mean to enter into the merits of the Petition; but if the fact were, that an hon. manager had gone out of the charge, and alleged a crime against Mr. Hastings, which that House had not made a part of the articles sent by them up to the House of Lords, it behoved that House to disclaim such allegation as an abuse of criminal justice. With regard to the examination of the short-hand writer's notes, the short-hand writer for the committee of managers was, in fact, the short-hand writer of the House, and therefore they were at perfect liberty to call him before them, and refer to his notes whenever they thought proper; whereas the short-hand writer for the House of Lords not being at the control of the House of Commons, could not permit them to see his notes unless they first obtained leave for him so to do from the House of Lords.

The previous question was carried.

Mr. *Adam* then moved, "That a committee be appointed to inspect precedents, and to report to the House what evidence has been received, by the House, respecting any complaint of expressions or words used on the trial of any impeachment, by any members of this House employed to manage such impeachment."

Sir *William Young* said, he thought the Petition an ill-judged one. With respect to a committee to search for precedents, he must object to any such committee being appointed. He desired gentlemen to think of the times in which those precedents existed, and the distraction and confusions that distinguished them. A governor of one of the largest provinces belonging to the British crown was at the bar of the House of Lords. They had deprived him of his political character, they had attacked him with respect to his con-

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duct to women, and imputed facts to him that would disgrace the lowest individual. All they had left him was, the claim to a due administration of justice, and they had now infringed that. He would not consent, therefore, to waste time in idly searching for precedents; but if he were the single man to give a negative to the question, he would take the sense of the House upon it.

The House divided:

Tellers.

Yeas	Mr. Minchin - - - - Mr. St. John - - - -	102
Noes	Sir William Young - - Mr. Yorke - - - - -	17

A committee was accordingly appointed.

May 4. The Marquis of *Graham* reported from the said committee, that the committee had examined the matter to them referred, and had directed him to make the following Report:—

"Your committee have found no precedent respecting any complaint of expressions or words used on the trial of any impeachment; but as the proceedings in the case of words spoken, or supposed to have been spoken, by sir Dudley Digges and sir John Ellyott, in the course of the proceedings on the impeachment of the Duke of Buckingham, may be deemed analogous in some respects to the subject of the order of reference; your committee beg leave to refer the House to the Journals of the 3rd, 8th, 9th, 12th, 13th, 15th, 16th, 17th, 19th and 20th of May, 1626, which contain those proceedings."

The order of the day being read for taking into further consideration the Petition of Mr. Hastings, Mr. Sumner moved, "That Mr. Gurney, one of the short-hand writers appointed to take minutes at the trial of Warren Hastings, esq. in Westminster-hall, be called in, and examined touching the allegations contained in the said Petition."

Mr. *Francis* desired to be informed in what manner the gentlemen opposite meant to proceed in the examination; whether to the whole of the allegations, or to that part of the Petition complaining of words used relative to Nundcomar?

Mr. *Sumner* said, he wished to have the evidence gone into on the whole of the allegations; he would not, however, press the House to enter upon an examination further than to substantiate the words relative to the death of Nundcomar.

Mr. *Addington* contended, that it was needless to go into that part of the Petition which complained of words used in the course of the last year. For the purpose of confining the examination to the allegation of improper words having been used relative to Nundcomar, he moved an amendment, by leaving out the words "touching the allegations contained in the said Petition," and inserting the words "respecting so much of the allegations in the Petition as relate to words alleged to have been spoken by Mr. Burke, concerning Nundcomar," instead thereof.

Sir *James Johnstone* urged the propriety of confining the inquiry to the words used by Mr. Burke.

Mr. *Sheridan* said, that all partial examinations of the Petition were improper; the House had, for the purpose of granting justice to Mr. Hastings, agreed to take into consideration the Petition; he hoped, therefore, they would not be so unjust to Mr. Burke, as to refuse to take the whole of the Petition into their consideration, that he might have an opportunity of refuting the charges which it contained. If the House proceeded upon the principle of doing justice to Mr. Hastings, what right had they to garble his grievances, and to say, "This we will, and this we will not consider?" If they considered any, they were bound to consider the whole. The mode proposed by the amendment might possibly be thought a more handy way of passing a slur upon the managers of the prosecution; but it was a mode which he sincerely hoped the House would not adopt.

Mr. *Addington* was of opinion, that it was unnecessary upon every account, either for the satisfaction of Mr. Burke or Mr. Hastings, to have the former part of the Petition considered. If it was not taken notice of by the House, no slur could be supposed to fall on Mr. Burke; for in consequence of the House not noticing that part of the Petition, it fell of course to the ground, and Mr. Burke stood entirely absolved of all censure or blame.

Major *Scott* considered an examination into the whole of the Petition as absolutely necessary.

Mr. *Fox* trusted the House would not lose sight of the principle upon which they acted in receiving the Petition, which was, that no man should experience an injury without being enabled to call for redress in some place. On that prin-

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ciple, though he thought it was over-strained in this instance, the House had taken into their hands to redress Mr. Hastings, because, they said, he could obtain redress no where else. That principle, if extended to one, ought also to be extended to another. The House ought to examine into the allegations of the whole Petition, that what might appear falsely stated by Mr. Hastings of his right hon. friend, might be met and refuted; for if the allegations were false, and that House refused to grant his right hon. friend redress, where was it to be obtained? It would not be obtained in any of the courts below, nor at the bar of the the Lords; the consequence of which would be, that his right hon. friend would be refused that redress which was granted to Mr. Hastings. The hon. gentleman had said, that if the first allegations in the Petition of Mr. Hastings were not taken notice of by the House, they would consequently fall to the ground, and the right hon. manager stand fully absolved. Would not the same argument hold good with Mr. Hastings? If it were likewise true that the right hon. manager would stand absolved in consequence of Mr. Hastings's allegations not being taken notice of, the same argument would apply in favour of Mr. Hastings, who would upon the same ground stand acquitted by the Lords of the allegations of the right hon. manager, if they were suffered to remain unnoticed.

Mr. *Pitt* observed, that if he saw the matter in its true light, the right hon. manager would stand fully cleared of any imputation on any part of the petition which the House thought proper so far to slight, as not to think meriting their consideration, and under that description he considered to come all the allegations of the petition respecting words charged to have been improperly used in the course of the last year, to which, if Mr. Hastings had felt himself injured by them he ought to have made an immediate complaint; he had, however, complained as soon as possible of the words relative to the death of Nundcomar, and to that point, he was of opinion, the House ought to proceed in their examination. He differed much from Mr. Fox in his observations on what had fallen from Mr. Addington. The comparison of the allegations of Mr. Burke against Mr. Hastings, and those of Mr. Hastings against Mr. Burke, he was of opinion could be supported by no man, unless he was prepared to say, that an allegation advanced in a petition to that House, from an individual, complaining of the conduct of the managers of a prosecution of the House, carried the same weight with it as a charge made by the managers against an individual at the bar of the House of Lords, by managers clothed, as they frequently declared, with the robes of magistracy, and the whole powers of the House of Commons, and whose dignity would not suffer them to be spoken of as calumniators. No man, he was sure, would venture to make such an assertion. Would any gentleman then assert, that the same redress was granted to Mr. Hastings, by the Lords saying, "Here is a heavy and an enormous charge against you, which we cannot go into at present," as would be granted to the right hon. manager by the allegations contained in the first part of the petition lying on the table neglected by the House, and not deemed by them worthy their consideration? There was, in his opinion, and he believed in the opinion of all impartial men, not the least analogy in the two cases. He could not avoid remarking on the different conduct of the gentlemen on the opposite side, to that which they adopted on a former day; they were before wholly of opinion that the petition ought not to be considered at all, and now they objected to the examination being confined to one point, and were desirous to go into the whole; but they could not vote for the examination of the whole, without flying from their former ground, while the gentlemen who with him were of opinion that the part relating to Nundcomar ought to be proceeded on, would act consistently by refusing to examine the other allegations, which they might conceive to be unnecessary. The gentlemen on the other side objected also to the going into the petition at all, on account of the delay which it would occasion to the proceedings of the managers; they now, however, when his friends wished to confine the petition to one point which would not cause much delay, objected strenuously to that, and proposed a general examination into the whole of the petition, which relating to many circumstances of history and to words which had passed a twelvemonth ago, would require much more proof, and occasion a hundred times the delay.

Mr. *Fox* said, that when he contended that the whole of the petition ought to be gone into, he did not abandon the ground

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he had before gone upon, which was, that the petition ought not to have been taken into consideration at all; the House had decided contrary to his opinion; it was therefore upon the ground of the House of Commons, and not upon his own ground that he contended for the petition to be considered, not partially but altogether.

Mr. *Windham* said, that the arguments of his right hon. friend in objection to the amendment, were in his mind conclusive; if the House agreed to the amendment, they would act inconsistently with the principle on which they set out. The allegations contained in the petition went to a complaint against the whole of the managers; why, then, were they not all to be gone into? For what purpose was his right hon. friend to be singled out from the herd to be censured, which appeared to him to be the evident intention, by confining the examination of the petition to the words that his right hon. friend had used. The injury occasioned by those words, if an injury had been done full ten months ago before a numerous audience, why was it not complained of at that moment? why was it delayed to the present time? It was in his opinion, equally undeserving the attention of the House with any of the other allegations; but as the House had resolved to consider the petition, he wished them to consider the whole, and not partially.

The question being put, That the words proposed to be left out stand part of the question, the House divided:

Tellers

Yeas	Mr. G. A. North - - Mr. M. A. Taylor - -	69
Noes	Mr. Rose - - - - - Mr. Addington - - -	115

So it passed in the negative. After which the question as amended was put, and agreed to. Mr. Gurney being called in, and appearing at the bar, major Scott asked him, Whether he had taken notes on the trial of Warren Hastings, esq.? Mr. Gurney answered, he had. Major Scott next asked him, whether he had those notes about him which he had taken when Mr. Burke was speaking of Nundcomar? Mr. Gurney answered, he had. Major Scott next desired the witness to be asked to produce them. Sir Gilbert Elliot desired that the witness might withdraw; and Mr. Gurney having withdrawn,

Sir *Gilbert Elliot* said, he objected to that partial extract of the speech being delivered, which could not, he said, be judged of, when separated from the context. The whole speech, if any, ought to be delivered in.

Mr. *Bearcroft* said, that it would be certainly proper evidence to ask, if particular words were used or not. In answer to such question, the witness would undoubtedly have a right to consult his notes, to refresh his memory. He never heard, in any court, a requisition to a witness to deliver up his notes; if any party were not satisfied with the evidence delivered, they would be at liberty to get further information by cross-examination.

Major *Scott* said, he would, if agreeable to the House, mention the particular words to the witness, and ask him whether they were used by Mr. Burke.

Mr. *Adam* considered the present mode of examination to be in a great degree analogous to an answer in the court of chancery; he was consequently for the whole speech being produced, as it was impossible otherwise fairly to decide upon any part. His right hon. friend had used the words complained of in the course of opening the charge on presents; in opening that charge, it required a variety of statements; to prove the part of the charge relating to the Munny Begum, it was necessary to introduce Nundcomar, who had been a witness to much of that transaction; to prove, therefore, the words used by Mr. Burke in making that statement, it would at least be necessary to have the whole of that part of his speech which related to the Munny Begum, and which might lead to a very different construction of the words complained of, than what at present, without their context, they seemed to bear.

The *Attorney General* agreed, that the present proceeding might in some measure be considered as analogous to an answer in a court of chancery, where the party that was to prove words, called for such as they thought necessary for such proof; the other party, if they were dissatisfied, might call for any passage they thought fit, to throw light upon any part they conceived might bear a different meaning. He could not, however, see any reasonable objection that could be made to the examination proposed of Mr. Gurney; for as he was employed by that House to take notes of the proceedings on the trial, the notes were the property of the House, and he might be considered as a commit-

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tee clerk; as his notes were not so intelligible to members as the notes of a committee clerk, there would certainly be no objection to his being examined, with liberty to refresh his memory by a reference to his notes.

Mr. *Adam* wished the whole to be laid before them, that each party might be enabled to judge fully and fairly. He contended, that until such time as the whole part of the speeeh relative to Nundcomar was laid before the House, it would be impossible for them to proceed to an impartial decision.

Mr. *Bearcroft* contended, that the right course of proceeding would be, first, to let the party complaining lay his finger on the words complained of in the allegation of the petition, and let evidence be brought to that point; when that was concluded, let the other party cross-examine, and bring what evidence they thought proper for an explanation.

Mr. *Fox* rose for the purpose of knowing which was the right course of proceeding; he acknowledged himself incompetent to judge, when two such great and high authorities as the two learned gentlemen (Mr. Bearcroft and the Attorney-general) were in the most direct contradiction to each other, the former saying that the right course would be to examine the short-hand writer as a common witness at the bar, while the latter was of opinion that Mr. Gurney's notes were the property of the House, and that he might be considered as a clerk of a committee. If the latter gentleman's opinion was right, the former's must consequently be wrong; for if the notes were the property of the House, and Mr. Gurney might be considered as a committee clerk, the House ought to order the whole of the minutes to be laid before them. The learned gentleman had said, they were unintelligible; let them be translated, and let them come before the House in the same manner as the examinations taken before a committee. The House could not, with any propriety, proceed until they came to a marked course. He would not presume to say which of the learned gentlemen was right; but were he to choose which appeared to him least exceptionable, he should choose the notes to be delivered in, rather than Mr. Gurney being examined; for the present being a new case, of proving the words of a member spoken in his senatorial capacity, by a person not a member, the difficulty with respect to their privileges would in a certain degree be avoided, by considering Mr. Gurney as a committee clerk, and calling for his minutes.

Mr. *Pitt* said, that he could see no contradiction in the arguments of his two learned friends, the one saying Mr. Gurney might be examined as an auditor, and suffered to refer to his notes, and that he might be cross-examined to elucidate; the other saying, that the notes being taken for the House, were the property of that House; that as they were unintelligible to most gentlemen, Mr. Gurney might be examined, and suffered to refer to them; but in so saying, his learned friend did not mean to consider the note-taker's minutes to be precisely like the examination taken before a committee, nor could any man suppose it was so meant, the notes taken in the House, or in a committee, being under the inspection of the Speaker, or chairman aided by the House. He concluded by saying, that he conceived they were debating upon a point already decided oy the House, namely, that Mr. Gurney should be called and examined on the allegation relating to words used concerning the death of Nundcomar.

Mr. *Fox* agreed, that the House had decided, that Mr. Gurney was to be examined; they had not, however, decided in what capacity he was to be examined, whether as an auditor, or as a committee clerk, and both ways had been mentioned as right by the learned gentleman.

The question being then put, "That Mr. Gurney be called in," it was agreed to, and being come to the bar, Major Scott asked him the following questions: "Did you hear Mr. Burke say, before the Lords, that 'He murdered that man by the hands of sir Elijah Impey, or 'words to that effect? Mr. Gurney answered, "I remember words to that effect." The Speaker having desired him to look to his notes, he immediately read the following words of Mr. Burke; "For he murdered that man by the hands of sir Elijah Impey." Major Scott next asked, "Was it in an audible voice, and addressed to the Lords?" Mr. Gurney answered "Yes. Major Scott asked, "Who, in your opinion, did Mr. Burke mean by the words 'he', and 'that man'?" Mr. Harrison moved, That the witness do withdraw. Mr. Gurney being withdrawn, Mr. Harrison objected to the last question as exceedingly improper to be put; he would never agree to a stranger being asked his opi-

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nion of the meaning of a member's words. Major Scott agreeing to withdraw the question, Mr. Gurney was again called in, and underwent a long examination, which was attended with much desultory debate. As soon as Mr. Gurney's examination was concluded,

The Marquis of *Graham* rose, and explained the grounds on which he thought it incumbent on him to make a motion on the subject that had occupied so much of the attention of the House. The marquis thought the managers could not have been warranted in bringing forward the charge of Mr. Hastings being concerned in what had been termed the murder of Nundcomar, unless they had done it not collaterally, but as a specific charge, capable of investigation and defence. Mr. Hastings, he said, was under the prosecution of that House, and in a situation that entitled him to every protection they could possibly extend to him. He thought it had been exceedingly well said by a learned gentleman, that Mr. Hastings ought not to be weighed down by the weight of his accusers, but by the weight of his crimes. No charge, therefore ought to be preferred against him, which could not be proved at the bar of the House of Lords. The marquis assured the gentlemen on the other side, that he meant nothing personal in his motion, and that he should be extremely unhappy if the motion he meant to move should have the fatal effect of putting an end to a prosecution in which the honour and character of that House were deeply engaged. If, therefore, the impeachment were not carried forward, he, for one, should be extremely sorry, because he was convinced it would leave an indelible stain on the character of that House, and on the people of England. The marquis concluded with moving, "That no direction or authority was given, by this House, to the Committee appointed to manage the impeachment against Warren Hastings, esq., to make any charge or allegation against the said Warren Hastings, respecting the condemnation or execution of Nundcomar."

Mr. *Sheridan* asked if that was the only measure intended to be brought forward, or whether it was to be followed up by any other resolution?

The Marquis of *Graham* said, none that he knew of.

Mr. *Fox* said, that if it was to be followed up by no other resolution, he, for one, saw no objection to it, and should not trouble the House with any arguments against it, since after the motion should pass, it would be fully competent for him, Mr. Burke, or any other manager, to repeat the same words.

Mr. *Pitt* said, he was happy to find the motion was not likely to be opposed. He hoped it would convince the right hon. gentleman how prematurely he had argued at the beginning of the debate, in imagining that any person would have endeavoured to have drawn other consequences from the petition of Mr. Hastings, than those it naturally pointed to. He was glad to find that it met with the right hon. gentleman's acquiescence, and that they were likely to act, as they ought to do in all matters of public justice, unanimously. The injury done to Mr. Hastings consisted in his being charged with a crime judicially before a judicial court. There were very strong grounds of complaint, undoubtedly, in such a circumstance, and complaint having been made to that House, it was incumbent on them to take some measure for the sake of satisfying the injured party. Two modes of conduct were open to them; they should either prefer that charge in such a shape as should enable Mr. Hastings to meet it fairly, and defend himself against it, or they should let it be understood that such charge had not been authorized by them. He declared, he did not wish to go farther in throwing any censure on him who had made the charge, than for the purpose of doing that justice to Mr. Hastings which he thought he had a fair title to claim. And though, upon this occasion, it gave him great satisfaction to have heard the right hon gentleman declare the motion had his acquiescence, yet he could say that he felt no small degree of regret to hear the right hon. gentleman declare, that after this motion it would be fully competent to him to repeat the words, the speaking of which had occasioned the House so much trouble. He wished not, however, to say any thing that should provoke the right hon. gentleman to make the experiment; he owned, however, that his regret was mixed with much hope, that, upon calm reflection, the right hon. gentleman would see the impropriety of attempting any such conduct. Indeed, when he considered the good sense and good temper of the right hon. gentleman over the way, when he considered his judgment, and his thorough knowledge of what was

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due to his own dignity as a manager, he trusted there was no great occasion to fear that he, or any other person, would ever make a similar declaration.

Mr. *Fox* begged to have it understood, that the reason why he acquiesced in the motion was, because it implied no censure on his right hon. friend, and because he could not take this declaration of the House for any proof that it was wrong, according to the opinion of the House, in his right hon. friend to have introduced the words relative to the murder of Nundcomar. There was not one word in the resolution which implied that his right hon. friend ought not to have made the charge in the way he did. Mr. Fox, entering into a distinction between a murder technically so called, and a murder morally and substantially considered, desired to recall to the minds of gentlemen, that last year an honourable baronet (Sir Gilbert Elliot) brought forward the business of sir Elijah Impey, and accused him of a legal murder. He had himself, Mr. Fox declared, said it after that hon. baronet, and neither of them met with any censure. And why? Because neither of them talked of a murder in the technical sense of the word, but as a misdemeanor. His right hon. friend brought no charge of murder, as a direct charge of murder, but in the course of opening another charge, he introduced the imputation, in order to prove, that if Nundcomar's evidence was attempted to be discredited, he should bring forward facts which would show, that those who attempted to discredit Nundcomar, had acted basely, and deserved discredit themselves. Adverting to what had fallen from the attorney-general on the preceding Friday, he observed, that the learned member had made a declaration relative to the eyes of all Europe being upon us, and that a stain had been cast on the criminal justice of the country. It would be disgraceful to the learned gentleman's character, if after such a declaration, he did not come forward with a motion to remove the managers that night. The chancellor of the exchequer had been pleased to talk of his good sense and good temper. He was always proud of that right hon. gentleman's praise; but he really knew not what it meant. If it meant that the present motion was an indirect censure upon the managers, and that it was intended to restrain the managers from carrying on the prosecution in the manner which, in their judgment, was most likely to insure success, then it must put an end to the trial. If they were to look upon it as a declaration that they were to go on with the trial, but that it was as much as to say, "Take heed, gentlemen, you speak at your peril, and if you allude to the execution of Nundcomar, we will censure you;" if it meant that, he must say that the present managers were not men for such treatment. They considered themselves as warranted in proceeding according to the best of their judgments, always subject to the opinion of that House. They had flattered themselves, that there was some feeling and generosity in the House: they had flattered themselves that they had the confidence of the House; they had flattered themselves that if they did not deserve the confidence of the House, they should not be suffered to stand in the despicable situation of having the prosecution in their hands, without that confidence. If they did not merit it, he trusted they should be fairly and distinctly told so. Let gentlemen recollect that the House was composed of three different descriptions of persons; of the warm and zealous friends of the prosecution, of the enemies of the prosecution, and of those who professed to be friends of the prosecution, but who, lending their weight to the enemies of the prosecution, made their scale preponderate. Would not this latter fairly show that the judges were not the friends but the enemies of the prosecution; and while this was so, it must be evident that the enemies to the prosecution must prevail. In respect to the future progress of the prosecution, the managers must act to the best of their judgment. Was the motion meant as a censure, or was it not? Let gentlemen speak out fairly. If it was, they should know what conduct they ought to follow. He knew the opinion of the chancellor of the exchequer on the charge relative to Cheyt Sing, to be different from his; notwithstanding which he had delivered his own opinion at the bar of the House of Lords, and not that of the right hon. gentleman. If in summing up the present charge, he should feel it proper to say, that the execution of Nundcomar appeared to him to be a murder, he would contend farther, that in accusing a man of one misdemeanor, he might support it by another. Mr. Fox illustrated this point by the case of a captain of a ship, against whom murder was charged, on account of

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his having thrown his slaves overboard, in order, by that charge, to defeat the owner's claim of insurance. He declared that he saw no principle of law, reason, or justice, why he should not, in support of one charge, call in the aid of another, to make it strong and complete. If it should fall in his way to mention the execution of Nundcomar, he must mention it as one which involved in it morally the crime of murder. He declared openly and plainly what he conceived to be his duty; and as to the general effect of what had passed on the subject, it remained neither for the right hon. gentleman nor him to say. He declared that he thought the proceedings of the last few days infinitely disgraceful to that House, and infinitely dangerous to every future impeachment, and though it might be late to move any thing, then, yet should he ever have a prospect of a majority, he would attempt to expunge from the Journals all the proceedings on the subject. Those who had examined the constitution of the country with a political eye, would agree that more danger to the privileges of the House had occurred within these few days than for a century past; because, though every part of our constitution tended to give it strength and cohesion, there were certain corner stones, main props, and timbers, which were essential to its longevity and existence. The privileges of parliament, and the inquisitorial powers of that House were of this description, and they would be materially affected by the present proceedings.

Mr. *Sheridan* said, he certainly had declared in Westminster-hall, that he thought the execution of Nundcomar a foul murder: would any gentleman who had read the trial, or would the right hon. gentleman opposite stand up and declare that he was conscientiously convinced that he ought to have been executed? If the House commanded him not to allude to the transactions in question, he should certainly pay obedience; but if he did not, he should think that he deserted his duty, if he omitted to charge Nundcomar's execution as a murder.

Mr. *Windham* said, he had heard nothing of the assurances that the words complained of were irrelevant to the charge of the presents, and of the pledges to prove them; he declared he commended their prudence, because it would be the strangest of all doctrines to say, you that are arguing one fact cannot allude to a greater. It had been asked, was murder a subordinate and inferior act? Mr. Windham said, it might be subordinate, because he was not speaking of murder as a crime, but as a proof. He declared his right hon. friend was strictly authorized in what he did. If it were wrong, the House of Lords had not done their duty. And should they presume they had not? Were they so particularly hostile to the prisoner that he should be delivered over to the House of Commons? Mr. Windham remarked on the singularity of the prisoners applying to his accusers for redress. He alluded to Mr. Mitford's observation, that Mr. Hastings had appealed from the justice of the House of Lords, to the candour of the House of Commons, and said that if the learned gentleman had wished to mark the insult offered to the House of Lords it could not have been pointed out in a more striking manner. Mr. Windham having added, that he should still contend that in supporting a charge for a misdemeanor, it might be warrantable to allege higher crimes, concluded with saying, that the managers were put into the most degrading situation in the world, but that no person was disgraced by any thing but his own conduct; and their conduct he trusted, was such, that the House might rain and thunder its menaces, and they rise still brighter than before.

Mr. *Pitt* said, he rose merely to say a word to the three hon. gentlemen's insinuations, whether they ought not to be afraid of voting the question, lest it should be made a pretext for quitting the prosecution of justice. He, for one, should be of opinion that no such pretext could be taken. The right hon. gentleman especially had talked of his dictating what should and what should not be their conduct; he should hold himself guilty of pretty strong presumption, indeed, if he were to dictate to the House; but he never would shrink from giving his opinion, as a member of parliament, upon every subject that came under discussion in that House, and as the hon. gentlemen were so anxious about the honour of the House, he advised them to take care of their own honour, and he, and those who acted with him, would, on their part, take care of the honour of the house, and of their own.

Mr. *Fox* declared, that he would call Nundcomar's execution a murder, unless that House told him to the contrary. The

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managers, he contended, ought to be enabled to understand explicitly what the motion meant. The right hon. gentleman had said, he would not shrink from delivering his opinion. He knew not how the right hon. gentleman might act, but no tyrant ever sent men to a more arduous and perilous service than that which the managers were sent upon. In fact, there never was such duplicity and treachery as the conduct pursued that day. They meant to cast a slur on the proceedings of the managers, and were afraid to avow it.

The Marquis of *Graham* said, the right hon. gentleman's speech had forced him to say more, and with less moderation and temper, than he had intended. He had wished not to act otherwise than delicately to the managers, but the debate had changed the face of things, and since they insinuated that they could not go on without getting themselves into a considerable scrape, because the motion did not condemn the words already spoken, he would move an amendment to the question, by adding these words, "And that the words spoken by the right hon. Edmund Burke, one of the said managers, viz. 'he (meaning Warren Hastings, esq.) 'murdered that man, (meaning Nundcomar) by the hands of sir Elijah Impey,' ought not to have been spoken."

Colonel *Phipps* seconded the motion. He declared he was actuated by no personal impulse to support the motion, as it now stood; he knew nothing more of the right hon. manager than his public conduct and character, and with Mr. Hastings he had no connexion. But he thought the honour of the House required that Mr. Hastings should have some redress afforded him for the heavy injury he had sustained in being made the object of a public charge of murder. With regard to the confidence of that House, the managers had possessed, and would be honoured with it, unless they forfeited it by acting in an unjust and absurd manner; but they had certainly been indulged by the House to so great a degree, that it appeared to him that they were in danger of becoming spoilt children, and doing mischief if they were not checked in time.

Mr. *Fox* rose to move an amendment to the amendment, by adding at the end thereof the following words: "Although in the charge exhibited by the Commons of Great Britain, upon which the House voted the impeachment, there are the following words, viz. 'That the evidence 'of this man, (meaning Nundcomar) not 'having been entered into at the time when 'it might and ought to have been done by 'the said Warren Hastings, remains justly 'in force against him, and is not abated 'by the capital punishment of the said 'Nundcomar, but rather confirmed by the 'time and circumstances in which the ac-'cuser of the said Warren Hastings suf-'fered death,' and to which charge the said Warren Hastings, at the bar of this House, made the following answer, viz. 'To the malicious parts of this charge, 'which is the condemnation of Nund-'comar for a forgery, I do declare, in the 'most solemn and unreserved manner, 'that I had no concern, either directly 'or indirectly, in the apprehending, pro-'secuting, or execution of Nundcomar;' and although the managers who have been appointed by the House to arrange the evidence and enforce the charges against the said Warren Hastings, are of opinion, that the aforesaid declarations used by the said right hon. Edmund Burke, were essentially necessary to the support of one of the principal charges voted by this House."

The amendments having been read from the chair,

Mr. *Fox* rose and said, that the hon. gentleman who spoke last was the only man who had spoken out; he had said, the conduct of the managers had been absurd and unjust. With what face, Mr. Fox said, could they go into Westminster-hall and carry on the trial, when they must know the court would have heard that they were the most unjust and absurd men the House of Commons could select out of their whole body to conduct the proceedings? Undoubtedly, in the articles of impeachment the murder of Nundcomar was omitted, because it was not so much an object of charge, as a proof of a charge. Mr. Hastings had answered it himself, therefore he had thought it material to state, that if the House of Commons censured a manager, he had the applause of every man engaged in the same cause. With regard to the first motion, he did not object to it, because it implied no censure; he objected to it, because it did imply a censure. This was a most extraordinary proceeding. Instead of an instruction to the managers how to act in future, which ought to have been voted, they were called on to vote a censure for what was passed. Because, as was at first de-

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clared, no censure was to be passed, the noble marquis passes a censure. They meant at first to carry a courtly concealed censure. Now they vote a direct censure. It showed the spirit of their proceedings, and that they chose to act with the duplicity with which they were charged. Such conduct in the two hon. gentlemen, who moved and seconded the motions, was in the highest degree scandalous and indecent—Here Mr. Fox was called to order by

Colonel *Phipps*, who said, he was glad he had not called the right hon. gentleman to order sooner, as he feared he should not have been able to have preserved his temper. He said, he would not be told that he acted in that House with duplicity and treachery, nor that his conduct was in the highest degree indecent and scandalous. Such language ought not to be held within those walls, and would not be tolerated between gentlemen, nor perhaps ventured to be spoken in any other place.

The cry of Order! was extremely loud and general from the opposition side.

Mr. *Fox* said, he held the hon. colonel's words in the utmost contempt.

Mr. *M. A. Taylor* said, the hon. colonel was more disorderly than his right hon. friend.

Mr. *Francis* said, in the hearing of the chair, the hon. gentleman had thrown out a menace.

The confusion increasing, Mr. Pitt moved, "That strangers do withdraw." The gallery was accordingly cleared. After which,

Mr. *Pitt* rose. He said, that he had not thought it necessary before to trouble the House with much argument upon the question, because he entertained a hope, that the House would be agreed. He had been strongly called upon, indeed, to bring forward his arguments, as he had promised; but while there appeared to be a possibility of agreeing in the same vote, he did not wish either to take up the time of the House, or to provoke more dispute than was absolutely necessary upon the present subject. He must, however, now state the ground upon which he proceeded, and he begged, in the first place, to draw gentlemen's attention to the main point in dispute, between him and the right hon. gentleman opposite. The ground of the right hon. gentleman was this—that the House could not restrict the managers without dismissing them; the right hon. gentleman had stated it broadly as an universal truth, that men employed by others as managers or agents, never could or ought to be restricted in any point, but, if they went beyond the powers committed to them, that they ought to be dismissed; that there was no case conceivable in which it was fit in any manner or degree to restrain a manager; but, let the nature of the business be what it would, let the progress already made be what it would, let the inconvenience and difficulty of choosing new managers be ever so great, still, if the least restriction of the present managers seemed necessary, their instant dismission was the only possible plan of proceeding. He would venture to assert the contrary opinion without much fear of being thought absurd or extravagant. There were many cases imaginable, in which persons might somewhat exceed their powers, and thus render some restriction or observation upon their conduct very proper, while it might be highly improper to dismiss them; but, although every man's imagination might suggest a variety of cases to which this observation would apply, yet he questioned whether any case could be imagined to which it would apply so strongly as to the present. He need not enter further into this point. Let gentlemen reflect a moment, let them turn their minds to the present impeachment, and they could not fail to see how strongly and how fairly the observation applied to it.—The right hon. gentleman had alluded to the case of a ship's captain, against whom murder had been charged in throwing his slaves overboard, in order by that charge to defeat the owner's claim of insurance; and upon this he had grounded an argument, that the very crime of murder might be legally charged, in order to establish some other point; there could be no objection to try the present case by the one supposed; let the cases, however, be made alike, and let a true parallel be drawn. In the case of Mr. Hastings, the murder was charged, in order to discredit his character; this was contrary to every principle of legal evidence; it was a rule in the courts, that no fact could be given in evidence to discredit a witness; still less could a charge of murder be made in order to discredit any one. In the case of the captain alluded to, the murder of the slaves was an actual part of the cause, and was itself the occasion of the loss of property claimed from the under-writers;

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undoubtedly, therefore, it was fit it should be proved. In the present case, the murder of Nundcomar was no part of the crime of peculation, and every rule of evidence was in bar of it.—If, then, Nundcomar's murder was neither legal nor admissible evidence, there was only one other ground upon which it could be urged, namely, as a matter of aggravation. It was impossible to allow this; the common sense of the House, and of all mankind, would not permit the crime of murder to be urged in the way of aggravating a crime of peculation. If the murder were true, and could be proved, would any man say, it was not worthy to be made a distinct and substantive charge? If not true, it ought not to be urged as an aggravation of any other charge. What, then, was the conduct of the managers? Without the least authority from the House to charge this murder upon Mr. Hastings; nay, under the peculiar circumstance of knowing that the House had refused to impeach sir Elijah Impey, who was involved with Mr. Hastings in it; not choosing to use the privilege they had of proposing this charge in the House of Commons, in order to carry it up as another article of impeachment, they chose rather to stand up in the name of the House of Commons, to charge the crime of murder, clothed, as they there described themselves, in the robes of magistracy, armed, as they there declared themselves to be with the authority of the House, challenging respect and credit from their lordships, as the representatives of the House of Commons, in a manner different from the counsel on the other side of the question. Must it not, then, be admitted that the charge must come with all the weight and authority of the House, unless it were expressly contradicted?—The right hon. gentleman had accused those who differed from him, with being unfriendly to the inquisitorial rights of the House of Commons: for his own part, he trusted, that he should be found the truest friend to them; for it was the equitable exercise of our rights that was the best security for their continuance, and there was this most important circumstance, which he had yet to add to all that was already stated; namely, that this enormous crime of murder was thrown out against Mr. Hastings in a manner so foreign to the subject, and so irrelevant, that it could neither be answered by Mr. Hastings, nor decided upon by their lordships; the counsel, indeed, of Mr. Hastings probably would wish to answer it, but they were put into the unfair situation of being obliged to court obloquy, and to plead the harshness of their antagonists abuse, in order to get leave to do so.—It had been urged, that the mention of this business to the House, should not have originated with the criminal himself, or his own particular friends; and this had been vehemently argued as a ground for dismissing the consideration of it. This, he thought, was a reason harsh indeed. If the criminal has made appeal to this House, having no redress elsewhere, shall we say, because it is the injured party that appeals, that for this reason we will not hear of the complaint? Does it become the honour, the dignity, the liberality, or the magnanimity of a British House of Commons to say, that "because we are the accusers and you the culprit, we will therefore listen to no remonstrance, we will entertain no petition that you can present to us; we intended not indeed to charge you with murder, we impute to you nothing but misdemeanor; it is true, our managers have charged you with this foulest of crimes; but, because it is you, the criminal, that come to us and complain, and not one of our own body, it would degrade our character, it would trench upon our privileges, to hear your complaint; you must, therefore, sit contented under every crime our managers may load you with; it is our part to be the accusers, it is yours to be the party accused; and it is our principle, therefore, to set no bounds to the accusations which our managers are to heap upon you." Surely this would be to adopt the very spirit of persecution, instead of maintaining the inquisitorial rights of parliament; it would be to forget and to relinquish, instead of asserting and holding forth the true character of a British House of Commons.—But it was urged also, that the charge of murder was made last year, and at that time connived at. If this were the case (which he confessed he was not so entirely aware of), did it follow, because it passed unnoticed then, that being now so pointedly noticed by the petition of Mr. Hastings, the petition was therefore to be neglected? What would be the inference another time, if this argument should be allowed? Would not the managers naturally plead the House's silence upon the present petition, as leaving them in full liberty to say whatever they pleased

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against Mr. Hastings; to charge them with what crimes they pleased, and to dismiss all regard to the line chalked out for them in the articles of impeachment? The House was therefore called upon both by the petition of Mr. Hastings and the language of the managers themselves, to say whether they meant to renounce all right of interference, or whether they still held themselves accountable for the equity of the proceedings, and for the foundation of those charges which the managers in their name were urging against the criminal: the House must either charge Mr. Hastings with the murder of Nundcomar, or they must now disclaim it. If it be not disclaimed, it must and would be considered as their charge under the present circumstances. Mr. Hastings, as well as their lordships, and the whole world would so consider it. The motion therefore being calculated only for doing justice to Mr. Hastings, had nothing in it originally but this simple proposition.—The sort of language, however, which the managers had thought proper to use, and in which they seemed to be so entirely agreed, had made it necessary to go one step farther; for if a resolution of the House, disclaiming the charge of murdering Nundcomar, was not likely to prevent any of the managers from repeating, in the name of the House of Commons, the same charge of murder, it then became necessary to add the amendment proposed, and to say "that the words spoken by Mr. Burke, viz. 'that Mr. Hastings murdered Nundcomar,' ought not to have been spoken." He did not wish these words to be added for the sake of censure on that right hon. gentleman; he had even wished them not to be inserted at all; they were forced upon the House by the complaints of a gentleman over the way, who found fault with the resolution as useless, and unintelligible; and the more he thought of it, the more clearly was he convinced that they were now necessary; for he knew of no other way of restraining the managers from charging any thing they pleased in the name of the Commons of England, but by disclaiming what was past, and thus making it intelligible what should be done in future.—There was a sort of menace held out by the right hon. gentleman over the way, to which it was also necessary to say a few words. He had thrown out, that it was too much to suppose he could submit to continue the manager of a prosecution, in which he was to be thwarted and found fault with upon every occasion. If these words were literally true, there would be reason in them, certainly, he could not expect that the managers would continue, if censured (as it was hinted) whether right or wrong, or if restrained, literally on every occasion. But the argument if stated with any sort of candour, was exactly this: "You, the House of Commons, restrain us from charging Mr. Hastings with murder, by way of aggravating a charge of misdemeanor, and you have listened to a petition of the criminal, complaining of our having done so. We therefore conclude, that you will listen to any petition from the criminal upon any subject; and we conclude also, because you restrain us from charging crimes, that you have not authorized, that you will therefore restrain us from charging the allegations you have authorized, and we therefore give up the prosecution." The right hon. gentleman knew too well how such an argument would be felt by the House and by the public, for him to persist in it. He knew it could not be for the advantage of his own character, or that of the other managers, and he was sure it was not their intention or disposition to withdraw themselves from this important public trust, so long as they retained that fair and reasonable protection of the House which was still given them, and which it ought not to be doubted that the House would equally continue to give them. The impeachment was the impeachment of the Commons, and not of the managers only; and while it was the impeachment of the Commons that they prosecuted, the protection of the Commons was absolutely due to them, and he trusted would be fairly, unequivocally, and heartily given; at the same time he thought that if a blindfold implicit confidence was to be claimed, the House neither had given it, nor ever would give it to any managers of any prosecution As to himself, he would make no professions, but he would leave the House and the country to judge of his sincerity and faithfulness, in this and every other part of his public duty, by the conduct which he should hold; but thus much it was necessary to say, that as on the one hand, he would give to the managers every fair and honourable support, so on the other hand, there was no species of insinuation, suspicion or clamour, that should ever make him refuse to the criminal that fairness of

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trial, and that consideration of any cruelties in his case, which were due to him on sound principles of equity and impartial justice; and he hoped to show himself, throughout, zealous on the one hand, in prosecuting one whom he thought a public delinquent, and he hoped, on the other, to be equally zealous for the honour and character of the House of Commons. It was not difficult, he trusted, to unite both these principles; for he verily believed, that there was no better means of forwarding the success of the prosecution, than by discountenancing every thing unfair, and by testifying to the world the goodness of their cause by the fairness and equity of their proceedings.

Mr. *Fox* declared, that with respect to one point which related to what he had said on a former occasion, the right hon. gentleman had most cruelly perverted the meaning of his remark. Mr. Hastings in his petition complained of certain things not being brought to proof, and had prayed the House that they might be formed into specific charges. These, Mr. Fox said, related to Deby Sing, and he was satisfied, in his own mind, that Mr. Hastings desired that the charges might be specified, not with any view, that they should be so done, but because he dreaded their specification, and thought the best way to prevent it was to appear desirous to have them specified. He had, in a former speech, stated, that the words relative to Nundcomar were relevant to the charge of corruption. The right hon. gentleman denied it; and because he conceived that the mentioning of Nundcomar's execution was irrelevant to the charge he took it for granted that every man's mind was as satisfied as his own, and he argued it accordingly; but when he argued that opinion, the right hon. gentleman was prejudging the Commons at the bar of the House of Lords, because that was matter of evidence, on the admissibility of which the Lords were to determine. Another mistake of the right hon. gentleman was, his conceiving that if the business was not in the charge, it was forbidden by the House of Commons. By the same reason, the right hon. gentleman might imagine that every tittle of evidence was irrelevant, because the evidence made no part of the instruction of that House. Mr. Fox drew the distinction between a charge, as originally submitted to the House for them to vote, and the articles of impeachment carried up to the House of Lords to be proved. The first was loosely drawn, and contained not only the facts alleged, but the evidence; whereas the articles contained nothing but the facts, without a tittle of the evidence; and that mode of proceeding, he declared, he had learnt to be the proper one, from the first law authorities in that House. The right hon. gentleman had contended, that it would be impossible for them to prove the charge of Mr. Hastings having a share in the murder of Nundcomar, at the bar of the House of Lords. That was a business for the House of Lords to determine, and not for them. As to the arguments that a greater crime could not be adduced, in support of a charge for a less, these, he observed, were now all given up; the whole, therefore, rested on the plausible inference that Mr. Hastings or any one who received an injury, and could not obtain redress any where else, might receive it from the hands of that House. Mr. Fox undertook to prove that this was not the fact, and that Mr. Hastings had his remedy elsewhere, either by appealing to the House of Lords, or by his action at law against his right hon. friend, (Mr. Burke,) and nothing, he said, could prevent this latter remedy, but either the privileges of the House of Lords, or the privileges of the House of Commons. He could not conceive that the privileges of the House of Lords extended to the protection of the right hon. manager, speaking at their bar, any more than to a council for words delivered at their bar. If it was the privileges of the House of Commons, it must be, that they could not receive accounts of words spoken by one of their own members from any but their own members. And that he took to be the true state of the fact; because it would be equally disorderly to refer to the strangers in the gallery, and to call upon any person who happened to be there during a debate, and was known to be an excellent note-taker for a newspaper and to have an extraordinary correct memory, to prove what Mr. Fox said on his legs, as to admit the evidence of a stranger to prove to that House what Mr. Burke said in Westminster-hall. If words which were authentic had been spoken at the bar of a court of justice, and had not been taken notice of by the court it was a fair inference that the court did not consider them to be improper, but if any parliamentary proceeding was to be had upon them, no one ought to be heard

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upon the subject, but a member of the House. The right hon. gentleman, he observed, had asked whether the managers expected the House to repose in them a complete and even blind confidence and to set them free from every species of control? Undoubtedly not; but the right hon. gentleman might argue as he pleased concerning the subject of confidence. What would the public think when they found the managers deprived of the confidence of that House? With regard to the question of corruption, he conceived that the managers had the orders of that House to act as they had acted; and if they were to exercise their own arguments on what could prove or aggravate the facts, they must proceed to do as appeared to them most likely to obtain success. The right hon. gentleman had contended, that they were not to argue; that because the matter was not taken notice of last year, they were to consider that omission as a precedent; but the fact was, that it was attended to last year, and when his hon. friend near him had said, "no authority, however high should prevent his saying that Nundcomar's execution was a murder," there was the fullest and the most attentive House of Commons present that ever went into Westminster-hall, and yet no notice whatever was taken of his hon. friend's declaration at the time. He supposed, in the Benares charge, when the defence came to be made, there would be a reply also to that defence, in which it might be necessary to take notice again of some facts and allegations of which Mr. Hastings might complain to that House. Then the right hon. gentleman would say, "You last year exceeded your instructions." Instructions! the managers had no instructions, but that of consulting their own judgments. Without meaning, therefore, to give personal offence to any gentleman, he must still say, that the conduct of the House on that occasion was characterized by duplicity and treachery; they had entrapped the managers into this degrading situation; for were they of their own choosing, of their own appointing? No! they were chosen and appointed managers by the House of Commons. Suppose the case in private life. He had an advocate to plead his cause; he did so and so; suppose he was displeased with that advocate's conduct; suppose he did not approve of what he said in pleading his cause; what would he or any man do in such a case? Would he not say naturally he would have another advocate? He could not censure, because his advocate had acted to the best of his judgment. So that House had no right to censure the managers for an error in judgment. They gave them no compass to steer with, no line by which to regulate their conduct. That House, then, had a right to dismiss them, but nothing more. If the public conceived that they ought still to go on with the prosecution, and that the confidence of that House was not withdrawn from them, they would still persist in it, while they had a prospect of carrying it on with effect. He remembered the remark of the right hon. gentleman, that if the Irish propositions did not pass, he could not be a useful servant to the public. He also feared, if the motion passed, he could not be a useful servant to the public. To retain a situation, when the person retaining it knew that he could not hold it to any purpose, was neither honest nor honourable. And for that House to say, "Go on with the prosecution, though we will not suffer you to prosecute it with effect," was in words to speak for the prosecution, in action to go against it. If his right hon. friend had conducted himself improperly, in a situation in which he acted for others, as far as his judgment required, the fault lay with the employer and not with the employed. His right hon. friend had done justice to God and man, and he deserved no censure.

Mr. Fox's amendment was negatived without a division. The House then divided on the marquis of Graham's motion;

Tellers.

YEAS	Lord Belgrave Mr. Rose	135
NOES	Lord Maitland Sir James Erskine	66

So it was resolved in the affirmative. After which the main question so amended was put, and agreed to.

Mr. *Bouverie*, as soon as the House was resumed, moved, "That the thanks of this House be given to the right hon. Edmund Burke, and the rest of the managers, for their exertions and assiduity in the prosecution of the impeachment of Warren Hastings, esq., and that they be desired to persevere in the same."

The *Master of the Rolls* considered the motion as not merely premature but extremely improper at that moment just

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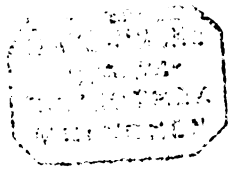
after the House had voted a censure upon one of the managers; and therefore, without meaning any personal incivility to any of those hon. gentlemen, he should take the liberty of moving the previous question upon the hon. gentleman's motion.

The previous question was put, and carried. The motion of Mr. Bouverie was consequently got rid of.

END OF VOL. XXVII.



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